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**Consolidated
Native Law
Statutes,
Regulations
and
Treaties
1994**



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Native Law
Statutes, Regulations
and Treaties 1994

1994



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ISBN 0-459-55796-3

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AWV5782

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R.S.C. 1985, c. I-5, as

am. R.S.C. 1985, c. 32 (1st Supp.);

c. 27 (2nd Supp.), s. 10 (Schedule);

c. 17 (4th Supp.); c. 43 (4th Supp.); c. 48 (4th Supp.); S.C. 1990, c. 16; 1990, c. 17;

1992, c. 51, s. 54; 1993, c. 28, s. 78 (Schedule III, items 73, 74) (not in force at date of publication)

An Act respecting Indians

SHORT TITLE

1. This Act may be cited as the *Indian Act*.

INTERPRETATION

2. (1) **Definitions.** — In this Act

“**band**”. — “band” means a body of Indians

(a) for whose use and benefit in common, lands, the legal title to which is vested in Her Majesty, have been set apart before, on or after the 4th day of September 1951,

(b) for whose use and benefit in common, moneys are held by Her Majesty, or

(c) declared by the Governor in Council to be a band for the purposes of this Act;

“**Band List**”. — “Band List” means a list of persons that is maintained under section 8 by a band or in the Department;

“**child**”. — “child” includes a child born in or out of wedlock, a legally adopted child and a child adopted in accordance with Indian custom;

“**council of the band**”. — “council of the band” means

(a) in the case of a band to which section 74 applies, the council established pursuant to that section,

(b) in the case of a band to which section 74 does not apply, the council chosen according to the custom of the band, or, where there is no council, the chief of the band chosen according to the custom of the band;

“**Department**”. — “Department” means the Department of Indian Affairs and Northern Development;

“**designated lands**”. — “designated lands” means a tract of land or any interest therein the legal title to which remains invested in Her Majesty and in which the band for whose use and benefit it was set apart as a reserve has, otherwise than absolutely, released or surrendered its rights or interests, whether before or after the coming into force of this definition;

“**elector**”. — “elector” means a person who

(a) is registered on a Band List,

- (b) is of the full age of eighteen years, and
- (c) is not disqualified from voting at band elections;

“estate”. — “estate” includes a real and personal property and any interest in land;

“Indian”. — “Indian” means a person who pursuant to this Act is registered as an Indian or is entitled to be registered as an Indian;

“Indian moneys”. — “Indian moneys” means all moneys collected, received or held by Her Majesty for the use and benefit of Indians or bands;

“Indian Register”. — “Indian Register” means the register of persons that is maintained under section 5;

“intoxicant”. — “intoxicant” includes alcohol, alcoholic, spirituous, vinous, fermented malt or other intoxicating liquor or combination of liquors and mixed liquor a part of which is spirituous, vinous, fermented or otherwise intoxicating and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption that are intoxicating;

“member of a band”. — “member of a band” means a person whose name appears on a Band List or who is entitled to have his name appear on a Band List;

“mentally incompetent Indian”. — “mentally incompetent Indian” means an Indian who, pursuant to the laws of the province in which he resides, has been found to be mentally defective or incompetent for the purposes of any laws of that province providing for the administration of estates of mentally defective or incompetent persons;

“Minister”. — “Minister” means the Minister of Indian Affairs and Northern Development;

“registered”. — “registered” means registered as an Indian in the Indian Register;

“Registrar”. — “Registrar” means the officer in the Department who is in charge of the Indian Register and the Band List maintained in the Department;

“reserve”. — “reserve”

(a) means a tract of land, the legal title to which is vested in Her Majesty, that has been set apart by Her Majesty for the use and benefit of a band, and

(b) except in subsection 18(2), sections 20 to 25, 28, 36 to 38, 42, 44, 46, 48 to 51, 58, 60 and 124 and the regulations made under any of those provisions, includes designated lands;

“superintendent”. — “superintendent” includes a commissioner, regional supervisor, Indian superintendent, assistant Indian superintendent and any other person declared by the Minister to be a superintendent for the purposes of this Act, and with reference to a band or a reserve, means the superintendent for that band or reserve;

“surrendered lands”. — “surrendered lands” means a reserve or part of a reserve or any interest therein, the legal title to which remains vested in Her Majesty, that has been released or surrendered by the band for whose use and benefit it was set apart.

(2) The expression “band” with reference to a reserve or surrendered lands means the band for whose use and benefit the reserve or the surrendered lands were set apart.

(3) Unless the context otherwise requires or this Act otherwise provides

- (a) a power conferred upon a band shall be deemed not to be exercised unless it is exercised pursuant to the consent of a majority of the electors of the band, and
- (b) a power conferred upon the council of a band shall be deemed not to be exercised unless it is exercised pursuant to the consent of a majority of the councillors of the band present at a meeting of the council duly convened. R.S. 1985, c. 32 (1st Supp.), s. 1; c. 17 (4th Supp.), s. 1.

ADMINISTRATION

3. (1) Minister to administer Act. — This Act shall be administered by the Minister of Indian Affairs and Northern Development, who shall be the superintendent general of Indian Affairs.

(2) Authority of Deputy Minister and chief officer. — The Minister may authorize the Deputy Minister of Indian Affairs and Northern Development or the chief officer in charge of the branch of the Department relating to Indian affairs to perform and exercise any of the duties, powers and functions that may be or are required to be performed or exercised by the Minister under this Act or any other Act of the Parliament of Canada relating to Indian affairs.

APPLICATION OF ACT

4. (1) Application of Act. — A reference in this Act to an Indian does not include any person of the race of aborigines commonly referred to as Inuit.

(2) Act may be declared inapplicable. — The Governor in Council may by proclamation declare that this Act or any portion thereof, except sections 5 to 14.3 or sections 37 to 41, shall not apply to

- (a) any Indians or any group or band of Indians,
- (b) any reserve or any surrendered lands or any part thereof,

and may by proclamation revoke any such declaration.

(2.1) Authority confirmed for certain cases. — For greater certainty, and without restricting the generality of subsection (2), the Governor in Council shall be deemed to have had the authority to make any declaration under subsection (2) that he has made in respect of section 11, 12 or 14, or any provision thereof, as each section or provision read immediately prior to April 17, 1985.

(3) Certain sections inapplicable to Indians living off reserves. — Sections 114 to 123 and, unless the Minister otherwise orders, sections 42 to 52 do not apply to or in respect of any Indian who does not ordinarily reside on a reserve or on lands belonging to Her Majesty in right of Canada or a province. R.S. 1985, c. 32 (1st Supp.), s. 2.

4.1 Provisions that apply to all band members. — A reference to an Indian in any of the following provisions shall be deemed to include a reference to any person whose name is entered in a Band List and who is entitled to have it entered therein: the definitions “band”, “Indian moneys” and “mentally incompetent Indian” in section 2, subsections 4(2) and (3) and 18(2), sections 20 and 22 to 25, subsections 31(1) and (3) and 35(4), sections 51, 52, 52.2 and 52.3, subsections 58(3) and 61(1), sections 63 and 65, subsections 66(2) and 70(1) and (4), section 71, paragraphs 73(g) and (h), subsection 74(4), section 84, paragraph 87(a), section 88, subsection 89(1) and paragraph 107(b). R.S. 1985, c. 48 (4th Supp.), s. 1.

INDIAN REGISTER

5. (1) Indian Register. — There shall be maintained in the Department an Indian Register in which shall be recorded the name of every person who is entitled to be registered as an Indian under this Act.

(2) Existing Indian Register. — The names in the Indian Register immediately prior to April 17, 1985 shall constitute the Indian Register on April 17, 1985.

(3) Deletions and additions. — The Registrar may at any time add to or delete from the Indian Register the name of any person who, in accordance with this Act, is entitled or not entitled, as the case may be, to have his name included in the Indian Register.

(4) Date of change. — The Indian Register shall indicate the date on which each name was added thereto or deleted therefrom.

(5) Application for registration. — The name of a person who is entitled to be registered is not required to be recorded in the Indian Register unless an application for registration is made to the Registrar. R.S. 1985, c. 32 (1st Supp.), s. 4.

6. (1) Persons entitled to be registered. — Subject to section 7, a person is entitled to be registered if

(a) that person was registered or entitled to be registered immediately prior to April 17, 1985;

(b) that person is a member of a body of persons that has been declared by the Governor in Council on or after April 17, 1985 to be a band for the purposes of this Act;

(c) the name of that person was omitted or deleted from the Indian Register, or from a Band List prior to September 4, 1951, under subparagraph 12(1)(a)(iv), paragraph 12(1)(b) or subsection 12(2) or under subparagraph 12(1)(a)(iii) pursuant to an order made under subsection 109(2), as each provision read immediately prior to April 17, 1985, or under any former provision of this Act relating to the same subject-matter as any of those provisions;

(d) the name of that person was omitted or deleted from the Indian Register, or from a Band List prior to September 4, 1951, under subparagraph 12(1)(a)(iii) pursuant to an order made under subsection 109(1), as each provision read immediately prior to April 17, 1985, or under any former provision of this Act relating to the same subject-matter as any of those provisions;

(e) the name of that person was omitted or deleted from the Indian Register, or from a Band List prior to September 4, 1951,

(i) under section 13, as it read immediately prior to September 4, 1951, or under any former provision of this Act relating to the same subject-matter as that section, or

(ii) under section 111, as it read immediately prior to July 1, 1920, or under any former provision of this Act relating to the same subject-matter as that section; or

(f) that person is a person both of whose parents are or, if no longer living, were at the time of death entitled to be registered under this section.

(2) Idem. — Subject to section 7, a person is entitled to be registered if that person is a person one of whose parents is or, if no longer living, was at the time of death entitled to be registered under subsection (1).

(3) **Deeming provision.** — For the purposes of paragraph (1)(f) and subsection (2),

(a) a person who was no longer living immediately prior to April 17, 1985 but who was at the time of death entitled to be registered shall be deemed to be entitled to be registered under paragraph (1)(a); and

(b) a person described in paragraph (1)(c), (d), (e), or (f) or subsection (2) who was no longer living on April 17, 1985 shall be deemed to be entitled to be registered under that provision. R.S. 1985, c. 32 (1st Supp.), s. 4; c. 43 (4th Supp.), s. 1.

7. (1) Persons not entitled to be registered. — The following persons are not entitled to be registered:

(a) a person who was registered under paragraph 11(1)(f), as it read immediately prior to April 17, 1985, or under any former provision of this Act relating to the same subject-matter as that paragraph, and whose name was subsequently omitted or deleted from the Indian Register under this Act; or

(b) a person who is the child of a person who was registered or entitled to be registered under paragraph 11(1)(f), as it read immediately prior to April 17, 1985, or under any former provision of this Act relating to the same subject-matter as that paragraph, and is also the child of a person who is not entitled to be registered.

(2) **Exception.** — Paragraph (1)(a) does not apply in respect of a female person who was, at any time prior to being registered under paragraph 11(1)(f), entitled to be registered under any other provision of this Act.

(3) **Idem.** — Paragraph (1)(b) does not apply in respect of the child of a female person who was, at any time prior to being registered under paragraph 11(1)(f), entitled to be registered under any other provision of this Act. R.S. 1985, c. 32 (1st Supp.), s. 4.

BAND LISTS

8. Band Lists. — There shall be maintained in accordance with this Act for each band a Band List in which shall be entered the name of every person who is a member of that band. R.S. 1985, c. 32 (1st Supp.), s. 4.

9. (1) Band Lists maintained in Department. — Until such time as a band assumes control of its Band List, the Band List of that band shall be maintained in the Department by the Registrar.

(2) **Existing Band Lists.** — The names in a Band List of a band immediately prior to April 17, 1985 shall constitute the Band List of that band on April 17, 1985.

(3) **Deletions and additions.** — The Registrar may at any time add to or delete from a Band List maintained in the Department the name of any person who, in accordance with this Act, is entitled or not entitled, as the case may be, to have his name included in that List.

(4) **Date of change.** — A Band List maintained in the Department shall indicate the date on which each name was added thereto or deleted therefrom.

(5) **Application for entry.** — The name of a person who is entitled to have his name entered in a Band List maintained in the Department is not required to be entered therein unless an application for entry therein is made to the Registrar. R.S. 1985, c. 32 (1st Supp.), s. 4.

10. (1) Band control of membership. — A band may assume control of its own membership if it establishes membership rules for itself in writing in accordance with this section and if, after the band has given appropriate notice of its intention to assume control of its own membership, a majority of the electors of the band gives its consent to the band's control of its own membership.

(2) Membership rules. — A band may, pursuant to the consent of a majority of the electors of the band,

- (a) after it has given appropriate notice of its intention to do so establish membership rules for itself; and
- (b) provide for a mechanism for reviewing decisions on membership.

(3) Exception relating to consent. — Where the council of a band makes a by-law under paragraph 81(p.4) bringing this subsection into effect in respect of the band, the consents required under subsections (1) and (2) shall be given by a majority of the members of the band who are of the full age of eighteen years.

(4) Acquired rights. — Membership rules established by a band under this section may not deprive any person who had the right to have his name entered in the Band List for that band, immediately prior to the time the rules were established, of the right to have his name so entered by reason only of a situation that existed or an action that was taken before the rules came into force.

(5) Idem. — For greater certainty, subsection (4) applies in respect of a person who was entitled to have his name entered in the Band List under paragraph 11(1)(c) immediately before the band assumed control of the Band List if that person does not subsequently cease to be entitled to have his name entered in the Band List.

(6) Notice to the Minister. — Where the conditions set out in subsection (1) have been met with respect to a band, the council of the band shall forthwith give notice to the Minister in writing that the band is assuming control of its own membership and shall provide the Minister with a copy of the membership rules for the band.

(7) Notice to band and copy of Band List. — On receipt of a notice from the council of a band under subsection (6), the Minister shall, if the conditions set out in subsection (1) have been complied with, forthwith

- (a) give notice to the band that it has control of its own membership; and
- (b) direct the Registrar to provide the band with a copy of the Band List maintained in the Department.

(8) Effective date of band's membership rules. — Where a band assumes control of its membership under this section, the membership rules established by the band shall have effect from the day on which notice is given to the Minister under subsection (6), and any additions to or deletions from the Band List of the band by the Registrar on or after that day are of no effect unless they are in accordance with the membership rules established by the band.

(9) Band to maintain Band List. — A band shall maintain its own Band List from the date on which a copy of the Band List is received by the band under paragraph (7)(b), and, subject to section 13.2, the Department shall have no further responsibility with respect to that Band List from that date.

(10) **Deletions and additions.** — A band may at any time add to or delete from a Band List maintained by it the name of any person who, in accordance with the membership rules of the band, is entitled or not entitled, as the case may be, to have his name included in that list.

(11) **Date of change.** — A Band List maintained by a band shall indicate the date on which each name was added thereto or deleted therefrom. R.S. 1985, c. 32 (1st Supp.), s. 4.

11. (1) Membership rules for Departmental Band list. — Commencing on April 17, 1985, a person is entitled to have his name entered in a Band List maintained in the Department for a band if

- (a) the name of that person was entered in the Band List for that band, or that person was entitled to have his name entered in the Band List for that band, immediately prior to April 17, 1985;
- (b) that person is entitled to be registered under paragraph 6(1)(b) as a member of that band;
- (c) that person is entitled to be registered under paragraph 6(1)(c) and ceased to be a member of that band by reason of the circumstances set out in that paragraph; or
- (d) that person was born on or after April 17, 1985 and is entitled to be registered under paragraph 6(1)(f) and both parents of that person are entitled to have their names entered in the Band List or, if no longer living, were at the time of death entitled to have their names entered in the Band List.

(2) **Additional membership rules for Departmental Band List.** — Commencing on the day that is two years after the day that an Act entitled *An Act to amend the Indian Act*, introduced in the House of Commons on February 28, 1985, is assented to, or on such earlier day as may be agreed to under section 13.1, where a band does not have control of its Band List under this Act, a person is entitled to have his name entered in a Band List maintained in the Department for the band

- (a) if that person is entitled to be registered under paragraph 6(1)(d) or (e) and ceased to be a member of that band by reason of the circumstances set out in that paragraph; or
- (b) if that person is entitled to be registered under paragraph 6(1)(f) or subsection 6(2) and a parent referred to in that provision is entitled to have his name entered in the Band List or, if no longer living, was at the time of death entitled to have his name entered in the Band List.

(3) **Deeming provision.** — For the purposes of paragraph (1)(d) and subsection (2),

- (a) a person whose name was omitted or deleted from the Indian Register or a band list in the circumstances set out in paragraph 6(1)(c), (d) or (e) who was no longer living on the first day on which the person would otherwise be entitled to have the person's name entered in the Band List of the band of which the person ceased to be a member shall be deemed to be entitled to have the person's name so entered; and
- (b) a person described in paragraph (2)(b) shall be deemed to be entitled to have the person's name entered in the Band List in which the parent referred to in that paragraph is or was, or is deemed by this section to be, entitled to have the parent's name entered.

(4) **Where band amalgamates or is divided.** — Where a band amalgamates with another band or is divided so as to constitute new bands, any person who would otherwise have been entitled to have his name entered in the Band List of that band under this section is entitled to

have his name entered in the Band List of the amalgamated band or the new band to which he has the closest family ties, as the case may be. R.S. 1985, c. 32 (1st Supp.), s. 4; c. 43 (4th Supp.), s. 2.

12. Entitlement with consent of band. — Commencing on the day that is two years after the day that an Act entitled *An Act to amend the Indian Act*, introduced in the House of Commons on February 28, 1985, is assented to, or on such earlier day as may be agreed to under section 13.1, any person who

- (a) is entitled to be registered under section 6, but is not entitled to have his name entered in the Band List maintained in the Department under section 11, or
- (b) is a member of another band,

is entitled to have his name entered in the Band List maintained in the Department for a band if the council of the admitting band consents. R.S. 1985, c. 32 (1st Supp.), s. 4.

13. Limitation to one Band List. — Notwithstanding sections 11 and 12, no person is entitled to have his name entered at the same time in more than one Band List maintained in the Department. R.S. 1985, c. 32 (1st Supp.), s. 4.

13.1 (1) Decision to leave Band List control with Department. — A band may, at any time prior to the day that is two years after the day that an Act entitled *An Act to amend the Indian Act*, introduced in the House of Commons on February 28, 1985, is assented to, decide to leave the control of its Band List with the Department if a majority of the electors of the band gives its consent to that decision.

(2) **Notice to the Minister.** — Where a band decides to leave the control of its Band List with the Department under subsection (1), the council of the band shall forthwith give notice to the Minister in writing to that effect.

(3) **Subsequent band control of membership.** — Notwithstanding a decision under subsection (1), a band may, at any time after that decision is taken, assume control of its Band List under section 10. R.S. 1985, c. 32 (1st Supp.), s. 4.

13.2 (1) Return of control to Department. — A band may, at any time after assuming control of its Band List under section 10, decide to return control of the Band List to the Department if a majority of the electors of the band gives its consent to that decision.

(2) **Notice to the Minister and copy of membership rules.** — Where a band decides to return control of its Band List to the Department under subsection (1), the council of the band shall forthwith give notice to the Minister in writing to that effect and shall provide the Minister with a copy of the Band List and a copy of all the membership rules that were established by the band under subsection 10(2) while the band maintained its own Band List.

(3) **Transfer of responsibility to Department.** — Where a notice is given under subsection (2) in respect of a Band List, the maintenance of that Band List shall be the responsibility of the Department from the date on which the notice is received and from that time the Band List shall be maintained in accordance with the membership rules set out in section 11. R.S. 1985, c. 32 (1st Supp.), s. 4.

13.3 Entitlement retained. — A person is entitled to have his name entered in a Band List maintained in the Department pursuant to section 13.2 if that person was entitled to have his name entered, and his name was entered, in the Band List immediately before a copy of it was provided to the Minister under subsection 13.2(2), whether or not that person is also

entitled to have his name entered in the Band List under section 11. R.S. 1985, c. 32 (1st Supp.), s. 4.

NOTICE OF BAND LISTS

14. (1) Copy of Band List provided to band council. — Within one month after the day an Act entitled *An Act to amend the Indian Act*, introduced in the House of Commons on February 28, 1985, is assented to, the Registrar shall provide the council of each band with a copy of the Band List for the band as it stood immediately prior to that day.

(2) List of additions and deletions. — Where a Band List is maintained by the Department, the Registrar shall, at least once every two months after a copy of the Band List is provided to the council of a band under subsection (1), provide the council of the band with a list of the additions to or deletions from the Band List not included in a list previously provided under this subsection.

(3) Lists to be posted. — The council of each band shall, forthwith on receiving a copy of the Band List under subsection (1), or a list of additions to and deletions from its Band List under subsection (2), post the copy or the list, as the case may be, in a conspicuous place on the reserve of the band. R.S. 1985, c. 32 (1st Supp.), s. 4.

INQUIRIES

14.1 Inquiries relating to Indian Register or Band Lists. — The Registrar shall, on inquiry from any person who believes that he or any person he represents is entitled to have his name included in the Indian Register or a Band List maintained in the Department, indicate to the person making the inquiry whether or not that name is included therein. R.S. 1985, c. 32 (1st Supp.), s. 4.

PROTESTS

14.2 (1) Protests. — A protest may be made in respect of the inclusion or addition of the name of a person in, or the omission or deletion of the name of a person from, the Indian Register, or a Band List maintained in the Department, within three years after the inclusion or addition, or omission or deletion, as the case may be, by notice in writing to the Registrar, containing a brief statement of the grounds therefor.

(2) Protest in respect of Band List. — A protest may be made under this section in respect of the Band List of a band by the council of the band, any member of the band or the person in respect of whose name the protest is made or his representative.

(3) Protest in respect of Indian Register. — A protest may be made under this section in respect of the Indian Register by the person in respect of whose name the protest is made or his representative.

(4) Onus of proof. — The onus of establishing the grounds of a protest under this section lies on the person making the protest.

(5) Registrar to cause investigation. — Where a protest is made to the Registrar under this section, he shall cause an investigation to be made into the matter and render a decision.

(6) Evidence. — For the purposes of this section, the Registrar may receive such evidence

on oath, on affidavit or in any other manner, whether or not admissible in a court of law, as in his discretion he sees fit or deems just.

(7) **Decision final.** — Subject to section 14.3, the decision of the Registrar under subsection (5) is final and conclusive. R.S. 1985, c. 32 (1st Supp.), s. 4.

14.3 (1) Appeal. — Within six months after the Registrar renders a decision on a protest under section 14.2,

(a) in the case of a protest in respect of the Band List of a band, the council of the band, the person by whom the protest was made, or the person in respect of whose name the protest was made or his representative, or

(b) in the case of a protest in respect of the Indian Register, the person in respect of whose name the protest was made or his representative,

may, by notice in writing, appeal the decision to a court referred to in subsection (5).

(2) **Copy of notice of appeal to the Registrar.** — Where an appeal is taken under this section, the person who takes the appeal shall forthwith provide the Registrar with a copy of the notice of appeal.

(3) **Material to be filed with the court by Registrar.** — On receipt of a copy of a notice of appeal under subsection (2), the Registrar shall forthwith file with the court a copy of the decision being appealed together with all documentary evidence considered in arriving at that decision and any recording or transcript of any oral proceedings related thereto that were held before the Registrar.

(4) **Decision.** — The court may, after hearing an appeal under this section,

(a) affirm, vary or reverse the decision of the Registrar; or

(b) refer the subject-matter of the appeal back to the Registrar for reconsideration or further investigation.

(5) **Court.** — An appeal may be heard under this section

(a) in the Province of Quebec, before the Superior Court for the district in which the band is situated or in which the person who made the protest resides, or for such other district as the Minister may designate;

(a.1) in the Province of Ontario, before the Ontario Court (General Division);

(b) in the Province of New Brunswick, Manitoba, Saskatchewan or Alberta, before the Court of Queen's Bench;

(c) in the Province of Prince Edward Island or Newfoundland, before the Trial Division of the Supreme Court; or

(d) in the Provinces of Nova Scotia and British Columbia, the Yukon Territory or the Northwest Territories, before the Supreme Court. R.S. 1985, c. 32 (1st Supp.), s. 4; c. 27 (2d Supp.), s. 10 (Schedule); 1990, c. 16, s. 14; c. 17, s. 25; 1992, c. 51, s. 54; 1993, c. 28, s. 78 (Schedule III, item 73).

(d) in the Provinces of Nova Scotia and British Columbia, the Yukon Territory, the Northwest Territories or Nunavut, before the Supreme Court. [1993, c. 28, s. 78 (Schedule III, item 73). Not in force at date of publication.]

PAYMENTS IN RESPECT OF PERSONS CEASING TO BE BAND MEMBERS

15. (1) Commutation of payments under former Act. — [Repealed R.S. 1985, c. 32 (1st Supp.), s. 5.]

(2) [Repealed R.S. 1985, c. 32 (1st Supp.), s. 5.]

(3) [Repealed R.S. 1985, c. 32 (1st Supp.), s. 5.]

(4) [Repealed R.S. 1985, c. 32 (1st Supp.), s. 5.]

(5) Where, prior to the 4th day of September 1951, any woman became entitled, under section 14 of the *Indian Act*, chapter 98 of the Revised Statutes of Canada, 1927, or any prior provisions to the like effect, to share in the distribution of annuities, interest moneys or rents, the Minister may, in lieu thereof, pay to such woman out of the moneys of the band an amount equal to ten times the average annual amounts of such payment made to her during the ten years last preceding or, if they were paid for less than ten years, during the years they were paid. R.S. 1985, c. 32 (1st Supp.), s. 5.

16. (1) Transferred member's interest. — [Repealed R.S. 1985 c. 32, (1st Supp.), s. 6.]

(2) A person who ceases to be a member of one band by reason of his becoming a member of another band is not entitled to any interest in the lands or moneys held by Her Majesty on behalf of the former band but he is entitled to the same interest in common in lands and moneys held by Her Majesty on behalf of the latter band as other members of that band. R.S. 1985, c. 32 (1st Supp.), s. 6.

(3) [Repealed R.S. 1985, c. 32 (1st Supp.), s. 6.]

NEW BANDS

17. (1) Minister may constitute new bands. — The Minister may, whenever he considers it desirable,

(a) amalgamate bands that, by a vote of a majority of their electors, request to be amalgamated; and

(b) constitute new bands and establish Band Lists with respect thereto from existing Band Lists, or from the Indian Register, if requested to do so by persons proposing to form the new bands.

(2) **Division of reserves and funds.** — Where pursuant to subsection (1) a new band has been established from an existing band or any part thereof, such portion of the reserve lands and funds of the existing band as the Minister determines shall be held for the use and benefit of the new band.

(3) **No protest.** — No protest may be made under section 14.2 in respect of the deletion from or the addition to a Band List consequent on the exercise by the Minister of any of his powers under subsection (1). R.S. 1985, c. 32 (1st Supp.), s. 7.

RESERVES

18. (1) Reserves to be held for use and benefit of Indians. — Subject to this Act, reserves are held by Her Majesty for the use and benefit of the respective bands for which they were set apart; and subject to this Act and to the terms of any treaty or surrender, the Governor

in Council may determine whether any purpose for which lands in a reserve are used or are to be used is for the use and benefit of the band.

(2) **Use of reserves for schools, etc..** — The Minister may authorize the use of lands in a reserve for the purpose of Indian schools, the administration of Indian affairs, Indian burial grounds, Indian health projects or, with the consent of the council of the band, for any other purpose for the general welfare of the band, and may take any lands in a reserve required for such purposes, but where an individual Indian, immediately prior to such taking, was entitled to the possession of such lands, compensation for such use shall be paid to the Indian, in such amount as may be agreed between the Indian and the Minister, or, failing agreement, as may be determined in such manner as the Minister may direct.

18.1 Children of band members. — A member of a band who resides on the reserve of the band may reside there with his dependent children or any children of whom he has custody. R.S. 1985, c. 32 (1st Supp.), s. 8.

19. Surveys and subdivisions. — The Minister may

- (a) authorize surveys of reserves and the preparation of plans and reports with respect thereto,
- (b) divide the whole or any portion of a reserve into lots or other subdivisions, and
- (c) determine the location and direct the construction of roads in a reserve.

POSSESSION OF LANDS IN RESERVES

20. (1) Possession of lands in a reserve. — No Indian is lawfully in possession of land in a reserve unless, with the approval of the Minister, possession of the land has been allotted to him by the council of the band.

(2) **Certificate of Possession.** — The Minister may issue to an Indian who is lawfully in possession of land in a reserve a certificate, to be called a Certificate of Possession, as evidence of his right to possession of the land described therein.

(3) **Location Tickets issued under previous legislation.** — For the purposes of this Act, any person who, on the 4th day of September 1951, held a valid and subsisting Location Ticket issued under *The Indian Act*, 1880, or any statute relating to the same subject-matter, shall be deemed to be lawfully in possession of the land to which the location ticket relates and to hold a Certificate of Possession with respect thereto.

(4) **Temporary possession.** — Where a possession of land in a reserve has been allotted to an Indian by the Council of the band, the Minister may, in his discretion, withhold his approval and may authorize the Indian to occupy the land temporarily and may prescribe the conditions as to use and settlement that are to be fulfilled by the Indian before the Minister approves of the allotment.

(5) **Certificate of Occupation.** — Where the Minister withholds approval pursuant to subsection (4), he shall issue a Certificate of Occupation to the Indian, and the Certificate entitles the Indian, or those claiming possession by devise or descent, to occupy the land in respect of which it is issued for a period of two years from the date thereof.

(6) **Extension and approval.** — The Minister may extend the term of a Certificate of Occupation for a further period not exceeding two years, and may, at the expiration of any period during which a Certificate of Occupation is in force

- (a) approve the allotment by the council of the band and issue a Certificate of Possession if in his opinion the conditions as to use and settlement have been fulfilled, or
- (b) refuse approval of the allotment by the council of the band and declare the land in respect of which the Certificate of Occupation was issued to be available for re-allotment by the council of the band.

21. Register. — There shall be kept in the Department a register, to be known as the Reserve Land Register, in which shall be entered particulars relating to Certificates of Possession and Certificates of Occupation and other transactions respecting lands in a reserve.

22. Improvements on lands. — Where an Indian who is in possession of lands at the time they are included in a reserve made permanent improvements thereon before that time, he shall be deemed to be in lawful possession of such lands at the time they are so included.

23. Compensation for improvements. — An Indian who is lawfully removed from lands in a reserve upon which he has made permanent improvements may, if the Minister so directs, be paid compensation in respect thereof in an amount to be determined by the Minister, either from the person who goes into possession or from the funds of the band, at the discretion of the Minister.

24. Transfer of possession. — An Indian who is lawfully in possession of lands in a reserve may transfer to the band or to another member of the band the right to possession of the land, but no transfer or agreement for the transfer of the right to possession of lands in a reserve is effective until it is approved by the Minister.

25. (1) Indian ceasing to reside on reserve. — An Indian who ceases to be entitled to reside on a reserve may, within six months or such further period as the Minister may direct, transfer to the band or another member of the band the right to possession of any lands in the reserve of which he was lawfully in possession.

(2) Where an Indian does not dispose of his right of possession in accordance with subsection (1), the right to possession of the land reverts to the band, subject to the payment of the Indian who was lawfully in possession of the land, from the funds of the band, of such compensation for permanent improvements as the Minister may determine.

26. Correction of Certificate or Location Tickets. — Whenever a Certificate of Possession or Occupation or a Location Ticket issued under *The Indian Act*, 1880, or any statute relating to the same subject-matter was, in the opinion of the Minister, issued to or in the name of the wrong person, through mistake, or contains any clerical error or misnomer, or wrong description of any material fact therein, the Minister may cancel the Certificate or Location Ticket and issue a corrected Certificate in lieu thereof.

27. Cancellation of Certificates or Location Tickets. — The Minister may, with the consent of the holder thereof, cancel any Certificate of Possession or Occupation or Location Ticket referred to in section 26, and may cancel any Certificate of Possession or Occupation or Location Ticket that in his opinion was issued through fraud or in error.

28. (1) Grants, etc., of reserve lands void. — Subject to subsection (2), a deed, lease, contract, instrument, document or agreement of any kind whether written or oral, by which a band or a member of a band purports to permit a person other than a member of that band to occupy or use a reserve or to reside or otherwise exercise any rights on a reserve is void.

(2) **Minister may issue permits.** — The Minister may by permit in writing authorize

any person for a period not exceeding one year, or with the consent of the council of the band for any longer period, to occupy or use a reserve or to reside or otherwise exercise rights on a reserve.

29. Exemption from seizure. — Reserve lands are not subject to seizure under legal process.

TRESPASS ON RESERVE

30. Penalty for trespass. — A person who trespasses on a reserve is guilty of an offence and is liable on summary conviction to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding one month, or to both.

31. (1) Information by Attorney General. — Without prejudice to section 30, where an Indian or a band alleges that persons other than Indians are or have been

- (a) unlawfully in occupation or possession of,
- (b) claiming adversely the right to occupation or possession of, or
- (c) trespassing upon

a reserve or part of a reserve, the Attorney General of Canada may exhibit an information in the Federal Court of Canada claiming, on behalf of the Indian or the band, the relief or remedy sought.

(2) Information deemed action by Crown. — An information exhibited under subsection (1) shall, for all purposes of the *Federal Court Act*, be deemed to be a proceeding by the Crown within the meaning of that Act.

(3) Existing remedies preserved. — Nothing in this section shall be construed to impair, abridge or otherwise affect any right or remedy that, but for this section, would be available to Her Majesty or to an Indian or a band.

SALE OR BARTER OF PRODUCE

32. (1) Sale or barter of produce. — A transaction of any kind whereby a band or a member thereof purports to sell, barter, exchange, give or otherwise dispose of cattle or other animals, grain or hay, whether wild or cultivated, or root crops or plants or their products from a reserve in Manitoba, Saskatchewan or Alberta, to a person other than a member of that band, is void unless the superintendent approves the transaction in writing.

(2) Exemption. — The Minister may at any time by order exempt a band and the members thereof or any member thereof from the operation of this section, and may revoke any such order.

33. Offence. — Every person who enters into a transaction that is void under subsection 32(1) is guilty of an offence.

ROADS AND BRIDGES

34. (1) Roads, bridges, etc. — A band shall ensure that the roads, bridges, ditches and fences within the reserve occupied by that band are maintained in accordance with instructions issued from time to time by the superintendent.

(2) Idem. — Where, in the opinion of the Minister, a band has not carried out the instructions of the superintendent given under subsection (1), the Minister may cause the

instructions to be carried out at the expense of the band or any member thereof and may recover the cost thereof from any amounts that are held by Her Majesty and are payable to the band or such member.

LANDS TAKEN FOR PUBLIC PURPOSES

35. (1) Taking of lands by local authorities. — Where by an Act of the Parliament of Canada or a provincial legislature, Her Majesty in right of a province, a municipal or local authority or a corporation is empowered to take or to use lands or any interest therein without the consent of the owner, the power may, with the consent of the Governor in Council and subject to any terms that may be prescribed by the Governor in Council, be exercised in relation to lands in a reserve or any interest therein.

(2) Procedure. — Unless the Governor in Council otherwise directs, all matters relating to compulsory taking or using of lands in a reserve under subsection (1) are governed by the statute by which the powers are conferred.

(3) Grant in lieu of compulsory taking. — Whenever the Governor in Council has consented to the exercise by a province, authority or corporation of the powers referred to in subsection (1), the Governor in Council may, in lieu of the province, authority or corporation taking or using the lands without the consent of the owner, authorize a transfer or grant of such lands to the province, authority or corporation, subject to any terms that may be prescribed by the Governor in Council.

(4) Payment. — Any amount that is agreed upon or awarded in respect to the compulsory taking or using of land under this section or that is paid for a transfer or grant of land pursuant to this section shall be paid to the Receiver General for the use and benefit of the band or for the use and benefit of any Indian who is entitled to compensation or payment as a result of the exercise of the powers referred to in subsection (1).

SPECIAL RESERVES

36. Reserves not vested in the Crown. — Where lands have been set apart for the use and benefit of a band and legal title thereto is not vested in Her Majesty, this Act applies as though the lands were a reserve within the meaning of this Act.

SURRENDERS AND DESIGNATIONS

37. (1) Sales. — Lands in a reserve shall not be sold nor title to them conveyed until they have been absolutely surrendered to Her Majesty pursuant to subsection 38(1) by the band for whose use and benefit in common the reserve was set apart.

(2) Other transactions. — Except where this Act otherwise provides, lands in a reserve shall not be leased nor an interest in them granted until they have been surrendered to Her Majesty pursuant to subsection 38(2) by the band for whose use and benefit in common the reserve was set apart. R.S. 1985, c. 17 (4th Supp.), s. 2.

38. (1) Surrender to Her Majesty. — A band may absolutely surrender to Her Majesty, conditionally or unconditionally, all of the rights and interests of the band and its members in all or part of a reserve.

(2) Designation. — A band may, conditionally or unconditionally, designate by way of a surrender to Her Majesty that is not absolute, any right or interest of the band and its members

in all or part of a reserve, for the purpose of its being leased or a right or interest therein being granted. R.S. 1985, c. 17 (4th Supp.), s. 2.

39. (1) How lands surrendered or designated. — An absolute surrender or designation is void unless

- (a) it is made to Her Majesty;
- (b) it is assented to by a majority of the electors of the band
 - (i) at a general meeting of the band called by the council of the band,
 - (ii) at a special meeting of the band called by the Minister for the purpose of considering a proposed absolute surrender or designation, or
 - (iii) by a referendum as provided in the regulations; and
- (c) it is accepted by the Governor in Council.

(2) Minister may call meeting or referendum. — Where a majority of the electors of a band did not vote at a meeting or referendum called pursuant to subsection (1), the Minister may, if the proposed absolute surrender or designation was assented to by a majority of the electors who did vote, call another meeting by giving thirty days notice thereof or another referendum as provided in the regulations.

(3) Assent of band. — Where a meeting is called pursuant to subsection (2) and the proposed absolute surrender or designation is assented to at the meeting or referendum by a majority of the electors voting, the surrender or designation shall be deemed, for the purposes of this section, to have been assented to by a majority of the electors of the band.

(4) The Minister may, at the request of the council of the band or whenever he considers it advisable, order that a vote at any meeting under this section shall be by secret ballot.

(5) Every meeting under this section shall be held in the presence of the superintendent or some other officer of the Department designated by the Minister. R.S. 1985, c. 17 (4th Supp.), s. 3.

40. Certification. — A proposed absolute surrender or designation that is assented to by the band in accordance with section 39 shall be certified on oath by the superintendent or other officer who attended the meeting and by the chief or a member of the council of the band and then submitted to the Governor in Council for acceptance or refusal. R.S. 1985, c. 17 (4th Supp.), s. 4.

41. Effect of surrenders and designations. — An absolute surrender or designation shall be deemed to confer all rights that are necessary to enable Her Majesty to carry out the terms of the surrender or designation. R.S. 1985, c. 17 (4th Supp.), s. 4.

DESCENT OF PROPERTY

42. (1) Powers of Minister with respect to property of deceased Indians. — Unless otherwise provided in this Act, all jurisdiction and authority in relation to matters and causes testamentary, with respect to deceased Indians, is vested exclusively in the Minister, and shall be exercised subject to and in accordance with regulations of the Governor in Council.

(2) Regulations. — The Governor in Council may make regulations for providing that a deceased Indian who at the time of his death was in possession of land in a reserve shall, in

such circumstances and for such purposes as the regulations prescribe, be deemed to have been at the time of his death lawfully in possession of that land.

(3) **Application of regulation.** — Regulations made under this section may be made applicable to estates of Indians who died before, on or after the 4th day of September 1951.

43. Particular powers. — Without restricting the generality of section 42, the Minister may

- (a) appoint executors of wills and administrators of estates of deceased Indians, remove them and appoint others in their stead;
- (b) authorize executors to carry out the terms of the wills of deceased Indians;
- (c) authorize administrators to administer the property of Indians who die intestate;
- (d) carry out the terms of wills of deceased Indians and administer the property of Indians who die intestate; and
- (e) make or give any order, direction or finding that in his opinion it is necessary or desirable to make or give with respect to any matter referred to in section 42.

44. (1) Courts may exercise jurisdiction with consent of Minister. — The court that would have jurisdiction if the deceased were not an Indian may, with the consent of the Minister, exercise, in accordance with this Act, the jurisdiction and authority conferred upon the Minister by this Act in relation to testamentary matters and causes and any other powers, jurisdiction and authority ordinarily vested in that court.

(2) **Minister may refer a matter to the court.** — The Minister may direct in any particular case that an application for the grant of probate of the will or letters of administration shall be made to the court that would have jurisdiction if the deceased were not an Indian, and the Minister may refer to such court any question arising out of any will or the administration of any estate.

(3) **Orders relating to lands.** — A court that is exercising any jurisdiction or authority under this section shall not without the consent in writing of the Minister enforce any order relating to real property on a reserve.

WILLS

45. (1) Indians may make wills. — Nothing in this Act shall be construed to prevent or prohibit an Indian from devising or bequeathing his property by will.

(2) **Form of will.** — The Minister may accept as a will any written instrument signed by an Indian in which he indicates his wishes or intention with respect to the disposition of his property upon his death.

(3) **Probate.** — No will executed by an Indian is of any legal force or effect as a disposition of property until the Minister has approved the will or a court has granted probate thereof pursuant to this Act.

46. (1) Minister may declare will void. — The Minister may declare the will of an Indian to be void in whole or in part if he is satisfied that

- (a) the will was executed under duress or undue influence;
- (b) the testator at the time of execution of the will lacked testamentary capacity;
- (c) the terms of the will would impose hardship on persons for whom the testator had a responsibility to provide;

- (d) the will purports to dispose of land in a reserve in a manner contrary to the interest of the band or contrary to this Act;
- (e) the terms of the will are so vague, uncertain or capricious that proper administration and equitable distribution of the estate of the deceased would be difficult or impossible to carry out in accordance with this act; or
- (f) the terms of the will are against the public interest.

(2) **Where will declared void.** — Where a will of an Indian is declared by the Minister or by a court to be wholly void, the person executing the will shall be deemed to have died intestate, and where the will is so declared to be void in part only, any bequest or devise affected thereby, unless a contrary intention appears in the will, shall be deemed to have lapsed.

APPEALS

47. Appeal to Federal Court. — A decision of the Minister made in the exercise of the jurisdiction or authority conferred upon him by section 42, 43 or 46 may, within two months from the date thereof, be appealed by any person affected thereby to the Federal Court of Canada, if the amount in controversy in the appeal exceeds five hundred dollars or if the Minister consents to an appeal. R.S. 1985, c. 10 (2d Supp.), ss. 64, 65.

DISTRIBUTION OF PROPERTY ON INTESTACY

48. (1) Surviving spouse's share. — Where the net value of the estate of an intestate does not, in the opinion of the Minister, exceed seventy-five thousand dollars or such other amount as may be fixed by order of the Governor in Council, the estate shall go to the widow.

(2) **Idem.** — Where the net value of the estate of an intestate, in the opinion of the Minister, exceeds seventy-five thousand dollars, or such other amount as may be fixed by order of the Governor in Council, seventy-five thousand dollars, or other such amount as may be fixed by order of the Governor in Council, shall go to the widow, and

- (a) if the intestate left no issue, the remainder shall go to the widow;
- (b) if the intestate left one child, one-half of the remainder shall go to the widow; and
- (c) if the intestate left more than one child, one-third of the remainder shall go to the widow,

and where a child has died leaving issue and such issue is alive at the date of the intestate's death, the widow shall take the same share of the estate as if the child had been living at that date.

(3) **Where children not provide for.** — Notwithstanding subsections (1) and (2),

- (a) where in any particular case the Minister is satisfied that any children of the deceased will not be adequately provided for, he may direct that all or any part of the estate that would otherwise go to the widow shall go to the children, and
- (b) the Minister may direct that the widow shall have the right, during her widowhood, to occupy any lands on a reserve that were occupied by her deceased husband at the time of his death.

(4) **Distribution to issue.** — Where an intestate dies leaving issue his estate shall be distributed, subject to the rights of the widow, if any, *per stirpes* among such issue.

(5) **Distribution to father and mother.** — Where an intestate dies leaving no widow or

issue his estate shall go to his father and mother in equal shares if both are living, but if either of them is dead the estate shall go to the survivor.

(6) **Distribution to brothers, sisters and their issue.** — Where an intestate dies leaving no widow or issue or father or mother his estate shall go to his brothers and sisters in equal shares, and if any brother or sister is dead the children of the deceased brother or sister shall take the share their parents would have taken if living, but where the only persons entitled are children of deceased brothers and sisters, they shall take per capita.

(7) **Next-of-kin.** — Where an intestate dies leaving no widow, issue, father, mother, brother or sister, and no children of any deceased brother or sister, his estate shall go to his next-of-kin.

(8) **Distribution among next-of-kin.** — Where the estate goes to the next-of-kin it shall be distributed equally among the next-of-kin of equal degree of consanguinity to the intestate and those who legally represent them, but in no case shall representation be admitted after brothers' and sisters' children, and any interest in land in a reserve shall vest in Her Majesty for the benefit of the band if the nearest of kin of the intestate is more remote than a brother or sister.

(9) **Degrees of kindred.** — For the purposes of this section, degrees of kindred shall be computed by counting upward from the intestate to the nearest common ancestor and then downward to the relative, and the kindred of the half-blood shall inherit equally with those of the whole-blood in the same degree.

(10) **Descendants and relatives born after intestate's death.** — Descendants and relatives of the intestate begotten before his death but born thereafter shall inherit as if they had been born in the lifetime of the intestate and had survived him.

(11) **Estate not disposed of by will.** — All such estate as is not disposed of by will shall be distributed as if the testator had died intestate and had left no other estate.

(12) **No dower or estate by curtesy.** — No widow is entitled to dower in the land of her deceased husband dying intestate, and no husband is entitled to an estate by curtesy in the land of his deceased wife so dying, and there is no community of real or personal property situated on a reserve.

(13) [Repealed R.S. 1985, c. 32 (1st Supp.), s. 9.]

(14) [Repealed R.S. 1985, c. 32 (1st Supp.), s. 9.]

(15) **Definition of "widow".** — This section applies in respect of an intestate woman as it applies in respect of an intestate male, and for the purposes of this section the word "widow" includes "widower". R.S. 1985, c. 32 (1st Supp.), s. 9; c. 48 (4th Supp.), s. 2.

(16) [Repealed R.S. 1985, c. 48, (4th Supp.), s. 2(3).]

49. Devisee's entitlement. — A person who claims to be entitled to possession or occupation of lands in a reserve by devise or descent shall be deemed not to be in lawful possession or occupation of that land until the possession is approved by the Minister.

50. (1) Non-resident of reserve. — A person who is not entitled to reside on a reserve does not by devise or descent acquire a right to possession or occupation of land in that reserve.

(2) **Sale by superintendent.** — Where a right to possession or occupation of land in a

reserve passes by devise or descent to a person who is not entitled to reside on a reserve, that right shall be offered for sale by the superintendent to the highest bidder among persons who are entitled to reside on a reserve and the proceeds of the sale shall be paid to the devisee or descendant, as the case may be.

(3) **Unsold lands revert to bands.** — Where no tender is received within six months or such further period as the Minister may direct after the date when the right to possession or occupation is offered for sale under subsection (2), the right shall revert to the band free from any claim on the part of the devisee or descendant, subject to the payment, at the discretion of the Minister, to the devisee or descendant, from the funds of the band, of such compensation for permanent improvements as the Minister may determine.

(4) **Approval required.** — The purchaser of a right to possession or occupation of land under subsection (2) shall be deemed not to be in lawful possession or occupation of the land until the possession is approved by the Minister.

MENTALLY INCOMPETENT INDIANS

51. (1) Powers of Minister generally. — Subject to this section, all jurisdiction and authority in relation to the property of mentally incompetent Indians is vested exclusively in the Minister.

(2) **Particular powers.** — Without restricting the generality of subsection (1), the Minister may

- (a) appoint persons to administer the estates of mentally incompetent Indians;
- (b) order that any property of a mentally incompetent Indian shall be sold, leased, alienated, mortgaged, disposed of or otherwise dealt with for the purpose of
 - (i) paying his debt or engagements,
 - (ii) discharging encumbrances on his property,
 - (iii) paying debts or expenses incurred for his maintenance or otherwise for his benefit, or
 - (iv) paying or providing for the expenses of future maintenance; and

(c) make such orders and give such directions as he considers necessary to secure the satisfactory management of the estates of mentally incompetent Indians.

(3) **Property off reserve.** — The Minister may order that any property situated off a reserve and belonging to a mentally incompetent Indian shall be dealt with under the laws of the province in which the property is situated.

GUARDIANSHIP

52. Property of infant children. — The Minister may administer or provide for the administration of any property to which infant children of Indians are entitled, and may appoint guardians for such purposes.

MONEY OF INFANT CHILDREN

52.1 (1) Distribution of capital. — The council of a band may determine that the payment of not more than three thousand dollars, or such other amount as may be fixed by order of the Governor in Council, in a year of the share of a distribution under paragraph 64(1)(a) that

belongs to an infant child who is a member of the band is necessary or proper for the maintenance, advancement or other benefit of the child.

(2) **Procedure.** — Before making a determination under subsection (1), the council of the band must

(a) post in a conspicuous place on the reserve fourteen days before the determination is made a notice that it proposes to make such a determination; and

(b) give the members of the band a reasonable opportunity to be heard at a general meeting of the band held before the determination is made.

(3) **Minister's duty.** — Where the council of the band makes a determination under subsection (1) and notifies the Minister, at the time it gives its consent to the distribution pursuant to paragraph 64(1)(a), that it has made that determination and that, before making it, it complied with subsection (2), the Minister shall make a payment described in subsection (1) for the maintenance, advancement or other benefit of the child to a parent or person who is responsible for the care and custody of the child or, if so requested by the council on giving its consent to that distribution, to the council. R.S. 1985, c. 48 (4th Supp.), s. 3.

52.2 Money of infant children of Indians. — The Minister may, regardless of whether a payment is made under section 52.1, pay all or part of any money administered by the Minister under section 52 that belongs to an infant child of an Indian to a parent or person who is responsible for the care and custody of the child or otherwise apply all or part of that money if

(a) the Minister is requested in writing to do so by the parent or the person responsible; and

(b) in the opinion of the Minister, the payment or application is necessary or proper for the maintenance, advancement or other benefit of the child. R.S. 1985, c. 48 (4th Supp.), s. 3.

52.3 (1) Attaining majority. — Where a child of an Indian attains the age of majority, the Minister shall pay any money administered by the Minister under section 52 to which the child is entitled to that child in one lump sum.

(2) **Exception.** — Notwithstanding subsection (1), where requested in writing to do so before a child of an Indian attains the age of majority by a parent or a person who is responsible for the care and custody of the child or by the council of the band of which the child is a member, the Minister may, instead of paying the money in one lump sum, pay it in instalments during a period beginning on the day the child attains the age of majority and ending not later than the day that is three years after that day. R.S. 1985, c. 48 (4th Supp.), s. 3.

52.4 Relief. — Where, in a proceeding in respect of the share of a distribution under paragraph 64(1)(a) or of money belonging to an infant child that was paid pursuant to section 52.1, 52.2 or 52.3, it appears to the court that the Minister, the band, its council or a member of that council acted honestly and reasonably and ought fairly to be relieved from liability in respect of the payment, the court may relieve the Minister, band, council or member, either in whole or in part, from liability in respect of the payment. R.S. 1985, c. 48 (4th Supp.), s. 3.

52.5 (1) Effect of payment. — The receipt in writing from a parent or person who is responsible for the care and custody of an infant child for a payment made pursuant to section 52.1 or 52.2

(a) discharges the duty of the Minister, the band, its council and each member of that council to make the payment to the extent of the amount paid; and

(b) discharges the Minister, the band, its council and each member of that council from seeing to its application or being answerable for its loss or misapplication.

(2) **Idem.** — The receipt in writing from the council of the band of which an infant child is a member for a payment made pursuant to section 52.1

(a) discharges the duty of the Minister to make the payment to the extent of the amount paid; and

(b) discharges the Minister from seeing to its application or being answerable for its loss or misapplication. R.S. 1985, c. 48, (4th Supp.), s. 3.

MANAGEMENT OF RESERVES AND SURRENDERED AND DESIGNATED LANDS

53. (1) Transactions re surrendered and designated lands. — The Minister or a person appointed by the Minister for the purpose may, in accordance with this Act and the terms of the absolute surrender or designation, as the case may be,

(a) manage or sell absolutely surrendered lands; or

(b) manage, lease or carry out any other transaction affecting designated lands.

(2) **Grant where original purchaser dead.** — Where the original purchaser of surrendered lands is dead and the heir, assignee or devisee of the original purchaser applies for a grant of the lands, the Minister may, upon receipt of proof in such manner as he directs and requires in support of any claim for the grant and upon being satisfied that the claim has been equitably and justly established, allow the claim and authorize a grant to issue accordingly.

(3) **Departmental employees.** — No person who is appointed pursuant to subsection (1) or who is an officer or servant of Her Majesty employed in the Department may, except with the approval of the Governor in Council, acquire directly or indirectly any interest in absolutely surrendered or designated lands. R.S. 1985, c. 17 (4th Supp.), s. 5.

54. Assignments. — Where absolutely surrendered lands are agreed to be sold and letters patent relating thereto have not issued, or where designated lands are leased or an interest in them granted, the purchaser, lessee or other person who has an interest in the absolutely surrendered or designated lands may, with the approval of the Minister, assign all or part of that interest to any other person. R.S. 1985, c. 17 (4th Supp.), s. 6.

55. (1) Surrendered and Designated Lands Register. — There shall be kept in the Department a register, to be known as the Surrendered and Designated Lands Register, in which shall be entered particulars in connection with any transaction affecting absolutely surrendered or designated lands.

(2) **Conditional assignment.** — A conditional assignment shall not be registered.

(3) **Proof of execution.** — Registration of an assignment may be refused until proof of its execution has been furnished.

(4) **Effect of registration.** — An assignment registered under this section is valid against an unregistered assignment or an assignment subsequently registered. R.S. 1985, c. 17 (4th Supp.), s. 7(1).

56. Certificate of registration. — Where an assignment is registered there shall be endorsed on the original copy thereof a certificate of registration signed by the Minister or by an officer of the Department authorized by him to sign such certificates.

57. Regulations. — The Governor in Council may make regulations

- (a) authorizing the Minister to grant licences to cut timber on surrendered lands, or, with the consent of the council of the band, on reserve lands;
- (b) imposing terms, conditions and restrictions with respect to the exercise of rights conferred by licences granted under paragraph (a);
- (c) providing for the disposition of surrendered mines and minerals underlying lands in a reserve;
- (d) prescribing the penalty not exceeding one hundred dollars or imprisonment for a term of three months, or both, that may be imposed on summary conviction for violation of any regulation made under this section; and
- (e) providing for the seizure and forfeiture of any timber or minerals taken in violation of any regulation made under this section.

58. (1) Uncultivated or unused lands. — Where land in a reserve is uncultivated or unused, the Minister may, with the consent of the council of the band,

- (a) improve or cultivate such land and employ persons therefor, and authorize and direct the expenditure of so much of the capital funds of the band as he considers necessary for such improvement or cultivation including the purchase of such stock, machinery or material or for the employment of such labour as the Minister considers necessary;
- (b) where the land is in the lawful possession of any individual, grant a lease of such land for agricultural or grazing purposes or for any purpose that is for the benefit of the person in possession; and
- (c) where the land is not in the lawful possession of any individual, grant for the benefit of the band a lease of such land for agricultural or grazing purposes.

(2) **Distribution of proceeds.** — Out of the proceeds derived from the improvement or cultivation of lands pursuant to paragraph (1)(b), a reasonable rent shall be paid to the individual in lawful possession of the lands or any part thereof, and the remainder of the proceeds shall be placed to the credit of the band, but if improvements are made on the lands occupied by an individual, the Minister may deduct the value of such improvements from the rent payable to such individual under this subsection.

(3) **Lease at request of occupant.** — The Minister may lease for the benefit of any Indian, on application of that Indian for that purpose, the land of which the Indian is lawfully in possession without the land being designated.

(4) **Disposition of grass, timber, non-metallic substances, etc.** — Notwithstanding anything in this Act, the Minister may, without an absolute surrender or designation

- (a) dispose of wild grass or dead or fallen timber, and
- (b) with the consent of the council of the band, dispose of sand, gravel, clay and other non-metallic substances upon or under lands in a reserve, or, where such consent cannot be obtained without undue difficulty or delay, may issue temporary permits for the taking of sand, gravel, clay and other non-metallic substances upon or under lands in a reserve, renewable only with the consent of the council of the band, and the proceeds of such transactions shall be credited to band funds or shall be divided between the band and the individual Indians in lawful possession of the lands in such shares as the Minister may determine. R.S. 1985, c. 17 (4th Supp.), s. 8.

59. Adjustment of contracts. — The Minister may, with the consent of the council of a band,

- (a) reduce or adjust the amount payable to Her Majesty in respect of a transaction affecting absolutely surrendered lands, designated lands or other lands in a reserve or the rate of interest payable thereon; and
- (b) reduce or adjust the amount payable to the band by an Indian in respect of a loan made to the Indian from band funds. R.S. 1985, c. 17 (4th Supp.), s. 9.

60. (1) Control over lands. — The Governor in Council may at the request of a band grant to the band the right to exercise such control and management over lands in the reserve occupied by the band as the Governor in Council considers desirable.

(2) Withdrawal. — The Governor in Council may at any time withdraw from a band a right conferred upon the band under subsection (1).

MANAGEMENT OF INDIAN MONEYS

61. (1) Indian moneys to be held for use and benefit. — Indian moneys shall be expended only for the benefit of the Indians or bands for whose use and benefit in common the moneys are received or held, and subject to this Act and to the terms of any treaty or surrender, the Governor in Council may determine whether any purpose for which Indian moneys are used or are to be used is for the use and benefit of the band.

(2) Interest. — Interest upon Indian moneys held in the Consolidated Revenue Fund shall be allowed at a rate to be fixed from time to time by the Governor in Council.

62. Capital and revenue. — All Indian moneys derived from the sale of surrendered lands or the sale of capital assets of a band shall be deemed to be capital moneys of the band and all Indian moneys other than capital moneys shall be deemed to be revenue moneys of the band.

63. Payments to Indians. — Notwithstanding the *Financial Administration Act*, where moneys to which an Indian is entitled are paid to a superintendent under any lease or agreement made under this Act, the superintendent may pay the moneys to the Indian.

64. (1) Expenditure of capital moneys with consent. — With the consent of the council of a band, the Minister may authorize and direct the expenditure of capital moneys of the band

- (a) to distribute per capita to the members of the band an amount not exceeding fifty per cent of the capital moneys of the band derived from the sale of surrendered lands;
- (b) to construct and maintain roads, bridges, ditches and water courses on the reserves or on surrendered lands;
- (c) to construct and maintain outer boundary fences on reserves;
- (d) to purchase land for use by the band as a reserve or as an addition to a reserve;
- (e) to purchase for the band the interest of a member of the band in lands on a reserve;
- (f) to purchase livestock and farm implements, farm equipment, or machinery for the band;
- (g) to construct and maintain on or in connection with a reserve such permanent improvements or works as in the opinion of the Minister will be of permanent value to the band or will constitute a capital investment;
- (h) to make to members of the band, for the purpose of promoting the welfare of the band, loans not exceeding one-half of the total value of

- (i) the chattels owned by the borrower, and

(ii) the land with respect to which he holds or is eligible to receive a Certificate of Possession,

and may charge interest and take security therefor; (i) to meet expenses necessarily incidental to the management of lands on a reserve, surrendered lands and any band property;

(j) to construct houses for members of the band, to make loans to members of the band for building purposes with or without security and to provide for the guarantee of loans made to members of the band for building purposes; and

(k) for any other purpose that in the opinion of the Minister is for the benefit of the band.

(2) Expenditure of capital moneys in accordance with by-laws. — The Minister may make expenditures out of the capital moneys of a band in accordance with by-laws made pursuant to paragraph 81(p.3) for the purpose of making payments to any person whose name was deleted from the Band List of the band in an amount not exceeding one per capita share of the capital moneys. R.S. 1985, c. 32 (1st Supp.), s. 10.

64.1 (1) Limitation in respect of paragraphs 6(1)(c), (d) and (e). — A person who has received an amount that exceeds one thousand dollars under paragraph 15(1)(a), as it read immediately prior to April 17, 1985, or under any former provision of this Act relating to the same subject-matter as that paragraph, by reason of ceasing to be a member of a band in the circumstances set out in paragraph 6(1)(c), (d) or (e) is not entitled to receive an amount under paragraph 64(1)(a) until such time as the aggregate of all amounts that he would, but for this subsection, have received under paragraph 64(1)(a) is equal to the amount by which the amount that he received under paragraph 15(1)(a), as it read immediately prior to April 17, 1985, or under any former provision of this Act relating to the same subject-matter as that paragraph, exceeds one thousand dollars, together with any interest thereon.

(2) Additional limitation. — Where the council of a band makes a by-law under paragraph 81(p.4) bringing this subsection into effect, a person who has received an amount that exceeds one thousand dollars under paragraph 15(1)(a), as it read immediately prior to April 17, 1985, or under any former provision of this Act relating to the same subject-matter as that paragraph, by reason of ceasing to be a member of the band in the circumstances set out in paragraph 6(1)(c), (d) or (e) is not entitled to receive any benefit afforded to members of the band as individuals as a result of the expenditure of Indian moneys under paragraphs 64(1)(b) to (k), subsection 66(1) or subsection 69(1) until the amount by which the amount so received exceeds one thousand dollars, together with any interest thereon, has been repaid to the band.

(3) Regulations. — The Governor in Council may make regulations prescribing the manner of determining interest for the purpose of subsections (1) and (2). R.S. 1985, c. 32 (1st Supp.), s. 11.

65. Expenditure of capital. — The Minister may pay from capital moneys

(a) compensation to an Indian in an amount that is determined in accordance with this Act to be payable to him in respect of land compulsorily taken from him for band purposes, and

(b) expenses incurred to prevent or suppress grass or forest fires or to protect the property of Indians in cases of emergency.

66. (1) Expenditure of revenue moneys with consent of band. — With the consent of the council of a band, the Minister may authorize and direct the expenditure of revenue moneys

for any purpose that in his opinion will promote the general progress and welfare of the band or any member of the band.

(2) **Minister may direct expenditure.** — The Minister may make expenditures out of the revenue moneys of the band to assist sick, disabled, aged or destitute Indians of the band and to provide for the burial of deceased indigent members of the band and to provide for the payment of contributions under the *Unemployment Insurance Act* on behalf of employed persons who are paid in respect of their employment out of moneys of the band.

(2.1) **Idem.** — The Minister may make expenditures out of the revenue moneys of a band in accordance with by-laws made pursuant to paragraph 81(p.3) for the purpose of making payments to any person whose name was deleted from the Band List of the band in an amount not exceeding one per capita share of the revenue moneys.

(3) **Expenditure of revenue moneys with authority of Minister.** — The Minister may authorize the expenditure of revenue moneys of the band for all or any of the following purposes, namely:

- (a) for the destruction of noxious weeds and the prevention of the spreading or prevalence of insects, pests or diseases that may destroy or injure vegetation on Indian reserves;
- (b) to prevent, mitigate and control the spread of diseases on reserves, whether or not the diseases are infectious or communicable;
- (c) to provide for the inspection of premises on reserves and the destruction, alteration or renovation thereof;
- (d) to prevent overcrowding of premises on reserves used as dwellings;
- (e) to provide for sanitary conditions in private premises on reserves as well as in public places on reserves; and
- (f) for the construction and maintenance of boundary fences. R.S. 1985, c. 32 (1st Supp.), s. 12.

67. Recovery of certain expenses. — Where money is expended by Her Majesty for the purpose of raising or collecting Indian moneys, the Minister may authorize the recovery of the amount so expended from the moneys of the band.

68. Maintenance of dependants. — Where the Minister is satisfied that an Indian

- (a) has deserted his spouse or family without sufficient cause,
- (b) has conducted himself in such a manner as to justify the refusal of his spouse or family to live with him, or
- (c) has been separated by imprisonment from his spouse and family,

the Minister may order that payments of any annuity or interest money to which that Indian is entitled shall be applied to the support of the spouse or family or both the spouse and family of that Indian. R.S. 1985 (1st Supp.), c. 32, s. 13.

69. (1) Management of revenue moneys by band. — The Governor in Council may by order permit a band to control, manage and expend in whole or in part its revenue moneys and may amend or revoke any such order.

(2) **Regulations.** — The Governor in Council may make regulations to give effect to subsection (1) and may declare therein the extent to which this Act and the *Financial Administration Act* shall not apply to a band to which an order made under subsection (1) applies.

LOANS TO INDIANS

70. (1) Loans to Indians. — The Minister of Finance may from time to time authorize advances to the Minister out of the Consolidated Revenue Fund of such sums of money as the Minister may require to enable him

(a) to make loans to bands, groups of Indians or individual Indians for the purchase of farm implements, machinery, livestock, motor vehicles, fishing equipment, seed grain, fencing materials, materials to be used in native handicrafts, any other equipment, and gasoline and other petroleum products, or for the making of repairs or the payment of wages, or for the clearing and breaking of land within reserves,

(b) to expend or to lend money for the carrying out of cooperative projects on behalf of Indians, or

(c) to provide for any other matter prescribed by the Governor in Council.

(2) Regulations. — The Governor in Council may make regulations to give effect to subsection (1).

(3) Accounting. — Expenditures that are made under subsection (1) shall be accounted for in the same manner as public moneys.

(4) Repayment. — The Minister shall pay to the Receiver General all moneys that he receives from bands, groups of Indians or individual Indians by way of repayments of loans made under subsection (1).

(5) Limitation. — The total amount of outstanding advances to the Minister under this section shall not at any one time exceed six million and fifty thousand dollars.

(6) Report to Parliament. — The Minister shall within fifteen days after the termination of each fiscal year or, if Parliament is not then in session, within fifteen days after the commencement of the next ensuing session, lay before Parliament a report setting out the total number and amount of loans made under subsection (1) during that year.

FARMS

71. (1) Minister may operate farms. — The Minister may operate farms on reserves and may employ such persons as he considers necessary to instruct Indians in farming and may purchase and distribute without charge, pure seed to Indian farmers.

(2) Application of profits. — The Minister may apply any profits that result from the operation of farms pursuant to subsection (1) on reserves to extend farming operations on the reserves or to make loans to Indians to enable them to engage in farming or other agricultural operations or he may apply such profits in any way that he considers to be desirable to promote the progress and development of the Indians.

TREATY MONEY

72. Treaty money payable out of C.R.F. — Moneys that are payable to Indians or to Indian bands under a treaty between Her Majesty and the band and for the payment of which the Government of Canada is responsible, may be paid out of the Consolidated Revenue Fund.

REGULATIONS

73. (1) Regulations. — The Governor in Council may make regulations

- (a) for the protection and preservation of fur-bearing animals, fish and other game on reserves;
- (b) for the destruction of noxious weeds and prevention of the spreading or prevalence of insects, pests or diseases that may destroy or injure vegetation on Indian reserves;
- (c) for the control of the speed, operation and parking of vehicles on roads within reserves;
- (d) for the taxation, control and destruction of dogs and for the protection of sheep on reserves;
- (e) for the operation, supervision and control of pool rooms, dance halls and other places of amusement on reserves;
- (f) to prevent, mitigate and control the spread of diseases on reserves, whether or not the diseases are infectious or communicable;
- (g) to provide medical treatment and health services for Indians;
- (h) to provide compulsory hospitalization and treatment for infectious disease among Indians;
- (i) to provide for the inspection of premises on reserves and the destruction, alteration or renovation thereof;
- (j) to prevent overcrowding of premises on reserves used as dwellings;
- (k) to provide for sanitary conditions in private premises on reserves as well as in public places on reserves;
- (l) for the construction and maintenance of boundary fences; and
- (m) for empowering and authorizing the council of a band to borrow money for band projects or housing purposes and providing for the making of loans out of moneys so borrowed to members of the band for housing purposes.

(2) The Governor in Council may prescribe the penalty, not exceeding a fine of one thousand dollars or imprisonment for a term not exceeding three months, or both, that may be imposed on summary conviction for violation of a regulation made under subsection (1).

(3) The Governor in Council may make orders and regulations to carry out the purposes and provisions of this Act.

ELECTIONS OF CHIEFS AND BAND COUNCILS

74. (1) Elected councils. — Whenever he deems it advisable for the good government of a band, the Minister may declare by order that after a day to be named therein the council of the band, consisting of a chief and councillors, shall be selected by elections to be held in accordance with this Act.

(2) **Composition of council.** — Unless otherwise ordered by the Minister, the council of a band in respect of which an order has been made under subsection (1) shall consist of one chief, and one councillor for every one hundred members of the band, but the number of councillors shall not be less than two nor more than twelve and no band shall have more than one chief.

(3) **Regulations.** — The Governor in Council may, for the purposes of giving effect to subsection (1), make orders or regulations to provide

- (a) that the chief of a band shall be elected by

- (i) a majority of the votes of the electors of the band, or
 - (ii) a majority of the votes of the elected councillors of the band from among themselves, but the chief so elected shall remain a councillor, and
- (b) that the councillors of a band shall be elected by
- (i) a majority of the votes of the electors of the band, or
 - (ii) a majority of the votes of the electors of the band in the electoral section in which the candidate resides and that he proposes to represent on the council of the band.

(4) **Electoral sections.** — A reserve shall for voting purposes consist of one electoral section, except that where the majority of the electors of a band who were present and voted at a referendum or a special meeting held and called for the purpose in accordance with the regulations have decided that the reserve should for voting purposes be divided into electoral sections and the Minister so recommends, the Governor in Council may make orders or regulations to provide that the reserve shall for voting purposes be divided into not more than six electoral sections containing as nearly as may be an equal number of Indians eligible to vote and to provide for the manner in which electoral sections so established shall be distinguished or identified.

75. (1) Eligibility. — No person other than an elector who resides in a section may be nominated for the office of councillor to represent that section on the council of the band.

(2) **Nomination.** — No person may be a candidate for election as chief or councillor unless his nomination is moved and seconded by persons who are themselves eligible to be nominated.

76. (1) Regulations governing elections. — The Governor in Council may make orders and regulations with respect to band elections and, without restricting the generality of the foregoing, may make regulations with respect to

- (a) meetings to nominate candidates;
- (b) the appointment and duties of electoral officers;
- (c) the manner in which voting shall be carried out;
- (d) election appeals; and
- (e) the definition of residence for the purpose of determining the eligibility of voters.

(2) **Secrecy of voting.** — The regulations made under paragraph (1)(c) shall make provision for secrecy of voting.

77. (1) Eligibility of voters for chief. — A member of a band who has attained the age of eighteen years and is ordinarily resident on the reserve is qualified to vote for a person nominated to be chief of the band and, where the reserve for voting purposes consists of one section, to vote for persons nominated as councillors.

(2) **Councillor.** — A member of a band who is of the full age of eighteen years and is ordinarily resident in a section that has been established for voting purposes is qualified to vote for a person nominated to be councillor to represent that section. R.S. 1985, c. 32 (1st Supp.), s. 14.

78. (1) Tenure of office. — Subject to this section, chiefs and councillors hold office for two years.

(2) **Vacancy.** — The office of chief or councillor becomes vacant when

(a) the person who holds that office

- (i) is convicted of an indictable offence,
- (ii) dies or resigns his office, or
- (iii) is or becomes ineligible to hold office by virtue of this Act; or

(b) the Minister declares that in his opinion the person who holds that office

- (i) is unfit to continue in office by reason of his having been convicted of an offence,
- (ii) has been absent from meetings of the council for three consecutive meetings without being authorized to do so, or
- (iii) was guilty, in connection with an election, of corrupt practice, accepting a bribe, dishonesty or malfeasance.

(3) **Disqualification.** — The Minister may declare a person who ceases to hold office by virtue of subparagraph (2)(b)(iii) to be ineligible to be a candidate for chief or councillor for a period not exceeding six years.

(4) **Special election.** — Where the office of chief or councillor becomes vacant more than three months before the date when another election would ordinarily be held, a special election may be held in accordance with this Act to fill the vacancy.

79. Governor in Council may set aside election. — The Governor in Council may set aside the election of a chief or a councillor on the report of the Minister that he is satisfied that

- (a) there was corrupt practice in connection with the election;
- (b) there was a violation of this Act that might have affected the result of the election; or
- (c) a person nominated to be a candidate in the election was ineligible to be a candidate.

80. Regulations respecting band and council meetings. — The Governor in Council may make regulations with respect to band meetings and council meetings and, without restricting the generality of the foregoing, may make regulations with respect to

- (a) presiding officers at such meetings;
- (b) notice of such meetings;
- (c) the duties of any representative of the Minister at such meetings; and
- (d) the number of persons required at the meeting to constitute a quorum.

POWERS OF THE COUNCIL

81. (1) By-laws. — The council of a band may make by-laws not inconsistent with this Act or with any regulation made by the Governor in Council or the Minister, for any or all of the following purposes, namely:

- (a) to provide for the health of residents on the reserve and to prevent the spreading of contagious and infectious diseases;
- (b) the regulation of traffic;
- (c) the observance of law and order;
- (d) the prevention of disorderly conduct and nuisances;
- (e) the protection against and prevention of trespass by cattle and other domestic animals,

the establishment of pounds, the appointment of pound-keepers, the regulation of their duties and the provision for fees and charges for their services;

(f) the construction and maintenance of water courses, roads, bridges, ditches, fences and other local works;

(g) the dividing of the reserve or a portion thereof into zones and the prohibition of the construction or maintenance of any class of buildings or the carrying on of any class of business, trade or calling in any such zone;

(h) the regulation of the construction, repair and use of buildings, whether owned by the band or by individual members of the band;

(i) the survey and allotment of reserve lands among the members of the band and the establishment of a register of Certificates of Possession and Certificates of Occupation relating to allotments and the setting apart of reserve lands for common use, if authority therefor has been granted under section 60;

(j) the destruction and control of noxious weeds;

(k) the regulation of bee-keeping and poultry raising;

(l) the construction and regulation of the use of public wells, cisterns, reservoirs and other water supplies;

(m) the control and prohibition of public games, sports, races, athletic contests and other amusements;

(n) the regulation of the conduct and activities of hawkers, peddlers or others who enter the reserve to buy, sell or otherwise deal in wares or merchandise;

(o) the preservation, protection and management of fur-bearing animals, fish and other game on the reserve;

(p) the removal and punishment of persons trespassing upon the reserve or frequenting the reserve for prohibited purposes;

(p.1) the residence of band members and other persons on the reserve;

(p.2) to provide for the rights of spouses and children who reside with members of the band on the reserve with respect to any matter in relation to which the council may make by-laws in respect of members of the band;

(p.3) to authorize the Minister to make payments out of capital or revenue moneys to persons whose names were deleted from the Band List of the band;

(p.4) to bring subsection 10(3) or 64.1(2) into effect in respect of the band;

(q) with respect to any matter arising out of or ancillary to the exercise of powers under this section; and

(r) the imposition on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both, for violation of a by-law made under this section.

(2) Power to restrain by order where conviction entered. — Where any by-law of a band is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted.

(3) Power to restrain by court action. — Where any by-law of a band passed is contravened, in addition to any other remedy and to any penalty imposed by the by-law, such contravention may be restrained by court action at the instance of the band council. R.S. 1985, c. 32 (1st Supp.), s. 15.

82. (1) Copies of by-laws to be sent to Minister. — A copy of every by-law made under

the authority of section 81 shall be forwarded by mail by the chief or a member of the council of the band to the Minister within four days after it is made.

(2) **Effective date of by-law.** — A by-law made under section 81 comes into force forty days after a copy thereof is forwarded to the Minister pursuant to subsection (1), unless it is disallowed by the Minister within that period, but the Minister may declare the by-law to be in force at any time before the expiration of that period.

83. (1) Money by-laws. — Without prejudice to the powers conferred by section 81, the council of a band may, subject to the approval of the Minister, make by-laws for any or all of the following purposes, namely,

- (a) subject to subsections (2) and (3), taxation for local purposes of land, or interests in land, in the reserve, including rights to occupy, possess or use land in the reserve;
- (a.1) the licensing of businesses, callings, trades and occupations;
- (b) the appropriation and expenditure of moneys of the band to defray band expenses;
- (c) the appointment of officials to conduct the business of the council, prescribing their duties and providing for their remuneration out of any moneys raised pursuant to paragraph (a);
- (d) the payment of remuneration, in such amount as may be approved by the Minister, to chiefs and councillors, out of any moneys raised pursuant to paragraph (a);
- (e) the enforcement of payment of amounts that are payable pursuant to this section, including arrears and interest;
- (e.1) the imposition and recovery of interest on amounts that are payable pursuant to this section, where those amounts are not paid before they are due, and the calculation of that interest;
- (f) the raising of money from band members to support band projects; and
- (g) with respect to any matter arising out of or ancillary to the exercise of powers under this section.

(2) **Restrictions on expenditures.** — An expenditure made out of moneys raised pursuant to subsection (1) must be so made under the authority of a by-law of the council of the band.

(3) **Appeals.** — A by-law made under paragraph (1)(a) must provide an appeal procedure in respect of assessments made for the purposes of taxation under that paragraph.

(4) **Minister's approval.** — The Minister may approve the whole or a part only of a by-law made under subsection (1).

(5) **Regulations re by-laws.** — The Governor in Council may make regulations not inconsistent with this section respecting the exercise of the by-law making powers of bands under this section.

(6) **By-laws must be consistent with regulations.** — A by-law made under this section remains in force only to the extent that it is consistent with the regulations made under subsection (5). R.S. 1985, c. 17 (4th Supp.), s. 10.

84. Recovery of taxes. — Where a tax that is imposed upon an Indian by or under the authority of a by-law under section 83 is not paid in accordance with the by-law, the Minister may pay the amount owing together with an amount equal to one-half of one per cent thereof out of moneys payable out of the funds of the band to the Indian.

85. [Repealed R.S. 1985, c. 17 (4th Supp.), s. 11.]

85.1 (1) By-laws relating to intoxicants. — Subject to subsection (2), the council of a band may make by-laws

- (a) prohibiting the sale, barter, supply or manufacture of intoxicants on the reserve of the band;
- (b) prohibiting any person from being intoxicated on the reserve;
- (c) prohibiting any person from having intoxicants in his possession on the reserve; and
- (d) providing for exceptions established pursuant to paragraph (b) or (c).

(2) **Consent of electors.** — A by-law may not be made under this section unless it is first assented to by a majority of the electors of the band who voted at a special meeting of the band called by the council of the band for the purpose of considering the by-law.

(3) **Copies of by-laws to be sent to Minister.** — A copy of every by-law made under this section shall be sent by mail to the Minister by the chief or a member of the council of the band within four days after it is made.

(4) **Offence.** — Every person who contravenes a by-law made under this section is guilty of an offence and is liable on summary conviction

- (a) in the case of a by-law made under paragraph (1)(a), to a fine of not more than one thousand dollars or to imprisonment for a term not exceeding six months or to both; and
 - (b) in the case of a by-law made under paragraph (1)(b) or (c), to a fine of not more than one hundred dollars or to imprisonment for a term not exceeding three months or to both.
- R.S. 1985, c. 32 (1st Supp.), s. 16.

86. Proof. — A copy of a by-law made by the council of a band under this Act, if it is certified to be a true copy by the superintendent, is evidence that the by-law was duly made by the council and approved by the Minister, without proof of the signature or official character of the superintendent, and no such by-law is invalid by reason of any defect in form.

TAXATION

87. Property exempt from taxation. — Notwithstanding any other Act of the Parliament of Canada or any Act of the legislature of a province, but subject to section 83, the following property is exempt from taxation, namely:

- (a) the interest of an Indian or a band in reserve or surrendered lands; and
- (b) the personal property of an Indian or band situated on a reserve;

and no Indian or band is subject to taxation in respect of the ownership, occupation, possession or use of any property mentioned in paragraph (a) or (b) or is otherwise subject to taxation in respect of any such property; and no succession duty, inheritance tax or estate duty is payable on the death of any Indian in respect of any such property or the succession thereto if the property passes to an Indian, nor shall any such property be taken into account in determining the duty payable under the *Dominion Succession Duty Act*, being chapter 89 of the Revised Statutes of Canada, 1952, or the tax payable under the *Estate Tax Act*, on or in respect of other property passing to an Indian.

LEGAL RIGHTS

88. General provincial laws applicable to Indians. — Subject to the terms of any treaty and any other Act of the Parliament of Canada, all laws of general application from time to

time in force in any province are applicable to and in respect of Indians in the province, except to the extent that such laws are inconsistent with this Act or any order, rule, regulation or by-law made thereunder, and except to the extent that such laws make provision for any matter for which provision is made by or under the Act.

89. (1) Restriction on mortgage, seizure, etc., on property on reserve. — Subject to this Act, the real and personal property of an Indian or a band situated on a reserve is not subject to charge, pledge, mortgage, attachment, levy, seizure, distress or execution in favour or at the instance of any person other than an Indian or a band.

(1.1) **Exception.** — Notwithstanding subsection (1), a leasehold interest in designated lands is subject to charge, pledge, mortgage, attachment, levy, seizure, distress and execution.

(2) **Conditional sales.** — A person who sells to a band or a member of a band a chattel under an agreement whereby the right of property or right of possession thereto remains wholly or in part in the seller, may exercise his rights under the agreement notwithstanding that the chattel is situated on a reserve. R.S. 1985, c. 17 (4th Supp.), s. 12.

90. (1) Property deemed situated on reserve. — For the purposes of sections 87 and 89, personal property that was

- (a) purchased by Her Majesty with Indian moneys or moneys appropriated by Parliament for the use and benefit of Indians or bands, or
- (b) given to Indians or to a band under a treaty or agreement between a band and Her Majesty,

shall be deemed always to be situated on a reserve.

(2) **Restriction on transfer.** — Every transaction purporting to pass title to any property that is by this section deemed to be situated on a reserve, or any interest in such property, is void unless the transaction is entered into with the consent of the Minister or is entered into between members of a band or between the band and a member thereof.

(3) **Destruction of property.** — Every person who enters into any transaction that is void by virtue of subsection (2) is guilty of an offence, and every person who, without the written consent of the Minister, destroys personal property that is by this section deemed to be situated on a reserve, is guilty of an offence.

TRADING WITH INDIANS

91. (1) Certain property on a reserve may not be acquired. — No person may, without the written consent of the Minister, acquire title to any of the following property situated on a reserve, namely:

- (a) an Indian grave house;
- (b) a carved grave pole;
- (c) a totem pole;
- (d) a carved house post; or
- (e) a rock embellished with paintings or carvings.

(2) **Saving.** — Subsection (1) does not apply to chattels referred to therein that are manufactured for sale by Indians.

(3) **Removal, destruction, etc.** — No person shall remove, take away, mutilate, disfigure,

deface or destroy any chattel referred to in subsection (1) without the written consent of the Minister.

(4) **Punishment.** — A person who violates this section is guilty of an offence and is liable on summary conviction to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding three months.

92. (1) Departmental employees, etc., prohibited from trading without a licence. — No person who is

- (a) an officer or employee in the Department,
- (b) a missionary engaged in mission work among Indians, or
- (c) a school teacher on a reserve,

shall, without a licence from the Minister or his duly authorized representative, trade for profit with an Indian or sell to him directly or indirectly goods or chattels, but no such licence shall be issued to a full-time officer or employee in the Department.

(2) **Cancellation of licence.** — The Minister or his duly authorized representative may at any time cancel a licence given under this section.

(3) **Punishment.** — A person who violates subsection (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars.

(4) **Dismissal.** — Without prejudice to subsection (3), an officer or employee in the Department who contravenes subsection (1) may be dismissed from office.

REMOVAL OF MATERIALS FROM RESERVES

93. Removal of material from reserves. — A person who, without the written permission of the Minister or his duly authorized representative,

- (a) removes or permits anyone to remove from a reserve
 - (i) minerals, stone, sand, gravel, clay or soil, or
 - (ii) trees, saplings, shrubs, underbrush, timber, cordwood or hay, or
- (b) has in his possession anything removed from a reserve contrary to this section,

is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months, or to both.

94-100. [Repealed R.S. 1985, c. 32 (1st Supp.), s. 17.]

OFFENCES, PUNISHMENT AND ENFORCEMENT

101. Certificate of analysis is evidence. — In every prosecution under this Act a certificate of analysis furnished by an analyst employed by the Government of Canada or by a province shall be accepted as evidence of the facts stated therein and of the authority of the person giving or issuing the certificate, without proof of the signature of the person appearing to have signed the certificate or his official character, and without further proof thereof.

102. Penalty where no other provided. — Every person who is guilty of an offence against any provision of this Act or any regulation made by the Governor in Council or the Minister for which a penalty is not provided elsewhere in this Act or the regulations, is liable

on summary conviction to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding three months, or to both.

103. (1) Seizure of goods. — Whenever a peace officer, a superintendent or a person authorized by the Minister believes on reasonable grounds that an offence against section 33, 85.1, 90 or 93 has been committed, he may seize all goods and chattels by means of or in relation to which he believes on reasonable grounds the offence was committed.

(2) Detention. — All goods and chattels seized pursuant to subsection (1) may be detained for a period of three months following the day of seizure unless during that period proceedings under this Act in respect of such offence are undertaken, in which case the goods and chattels may be further detained until such proceedings are finally concluded.

(3) Forfeiture. — Where a person is convicted of an offence against the sections mentioned in subsection (1), the convicting court or judge may order that the goods and chattels by means of or in relation to which the offence was committed, in addition to any penalty imposed, are forfeited to Her Majesty and may be disposed of as the Minister directs.

(4) Search. — A justice who is satisfied by information upon oath that there is reasonable ground to believe that there are upon a reserve or in any building, receptacle or place any goods or chattels by means of or in relation to which an offence against any of the sections mentioned in subsection (1) has been, is being or is about to be committed, may at any time issue a warrant under his hand authorizing a person named therein or a peace officer at any time to search the reserve, building, receptacle or place for any such goods or chattels. R.S. 1985, c. 32 (1st Supp.), s. 19.

104. Disposition of fines. — Every fine, penalty or forfeiture imposed under this Act belongs to Her Majesty for the benefit of the band with respect to which or to one or more members of which the offence was committed or to which the offender, if an Indian, belongs, but the Governor in Council may from time to time direct that the fine, penalty or forfeiture shall be paid to a provincial, municipal or local authority that bears in whole or in part the expense of administering the law under which the fine, penalty or forfeiture shall be applied in the manner that he considers will best promote the purpose of the law under which the fine, penalty or forfeiture is imposed, or the administration of that law.

105. Description of Indians in writs, etc. — In any order, writ, warrant, summons or proceeding issued under this Act it is sufficient if the name of the Indian or other person referred to therein is the name given to, or the name by which the Indian or other person is known by, the person who issues the order, writ, warrant, summons or proceeding, and if no part of the name of the person is given to or known by the person issuing the order, writ, warrant, summons or proceeding, it is sufficient if the Indian or other person is described in any manner by which he may be identified.

106. Jurisdiction of magistrates. — A police magistrate or a stipendiary magistrate has and may exercise, with respect to matters arising under this Act, jurisdiction over the whole county, union of counties or judicial district in which the city, town or other place for which he is appointed or in which he has jurisdiction under provincial laws is situated.

107. Appointment of justices. — The Governor in Council may appoint persons to be, for the purposes of this Act, justices of the peace and those persons have and may exercise the powers and authority of two justices of the peace with regard to

(a) offences under this Act, and

(b) any offence against the provisions of the Criminal Code relating to cruelty to animals, common assault, breaking and entering and vagrancy, where the offence is committed by an Indian or relates to the person or property of an Indian.

108. Commissioners for taking oaths. — For the purposes of this Act or any matter relating to Indian affairs

- (a) persons appointed by the Minister for the purpose,
- (b) superintendents, and
- (c) the Minister, Deputy Minister and the chief officer in charge of the branch of the Department relating to Indian affairs,

are *ex officio* commissioners for the taking of oaths.

109-113. [Repealed R.S. 1985, c. 32 (1st Supp.), s. 20.]

SCHOOLS

114. (1) Agreements with provinces, etc. — The Governor in Council may authorize the Minister, in accordance with this Act, to enter into agreements on behalf of Her Majesty for the education in accordance with this Act of Indian children with

- (a) the government of a province,
- (b) the Commissioner of the Northwest Territories,
- (c) the Commissioner of the Yukon Territory,
- (c.1) the Commissioner of Nunavut; [1993, c. 28, s. 78 (Schedule III, item 74). Not in force at date of publication]
- (d) a public or separate school board, and
- (e) a religious or charitable organization.

(2) **Schools.** — The Minister may, in accordance with this Act, establish, operate and maintain schools for Indian children. 1993, c. 28, s. 78 (Schedule III, item 74).

115. Regulations. — The Minister may

- (a) provide for and make regulations with respect to standards for buildings, equipment, teaching, education, inspection and discipline in connection with schools;
- (b) provide for the transportation of children to and from school;
- (c) enter into agreements with religious organizations for the support and maintenance of children who are being educated in schools operated by those organizations; and
- (d) apply to the whole or any part of moneys that would otherwise be payable to or on behalf of a child who is attending a residential school to the maintenance of that child at that school.

116. (1) Attendance. — Subject to section 117, every Indian child who has attained the age of seven years shall attend school.

(2) **Idem.** — The Minister may

- (a) require an Indian who has attained the age of six years to attend school;
- (b) require an Indian who becomes sixteen years of age during the school term to continue to attend school until the end of that term; and
- (c) require an Indian who becomes sixteen years of age to attend school for such further

period as the Minister considers advisable, but no Indian shall be required to attend school after he becomes eighteen years of age.

117. When attendance not required. — An Indian child is not required to attend school if the child

- (a) is, by reason of sickness or other unavoidable cause that is reported promptly to the principal, unable to attend school;
- (b) is, with the permission in writing of the superintendent, absent from school for a period not exceeding six weeks in each term for the purpose of assisting in husbandry or urgent and necessary household duties;
- (c) is under efficient instruction at home or elsewhere, within one year after the written approval by the Minister of such instruction; or
- (d) is unable to attend school because there is insufficient accommodation in the school that the child is entitled or directed to attend.

118. School to be attended. — Every Indian child who is required to attend school shall attend such school as the Minister may designate, but no child whose parent is a Protestant shall be assigned to a school conducted under Roman Catholic auspices and no child whose parent is a Roman Catholic shall be assigned to a school conducted under Protestant auspices, except by written direction of the parent.

119. (1) Truant officers. — The Minister may appoint persons, to be called truant officers, to enforce the attendance of Indian children at school, and for that purpose a truant officer has the powers of a peace officer.

(2) **Powers.** — Without restricting the generality of subsection (1), a truant officer may, subject to subsection (2.1),

- (a) enter any place where he believes, on reasonable grounds, that there are Indian children who are between the ages of seven and sixteen years, or who are required by the Minister to attend school;
- (b) investigate any case of truancy; and
- (c) serve written notice upon the parent, guardian or other person having the care or legal custody of a child to cause the child to attend school regularly thereafter.

(2.1) **Warrant required to enter dwelling-house.** — Where any place referred to in paragraph (2)(a) is a dwelling-house, a truant officer may not enter that dwelling-house without the consent of the occupant except under the authority of a warrant issued under subsection (2.2).

(2.2) **Authority to issue warrant.** — Where on *ex parte* application a justice of the peace is satisfied by information on oath

- (a) that the conditions for entry described in paragraph (2)(a) exist in relation to a dwelling-house,
- (b) that entry to the dwelling-house is necessary for any purpose relating to the administration or enforcement of this Act, and
- (c) that entry to the dwelling-house has been refused or that there are reasonable grounds for believing that entry thereto will be refused,

he may issue a warrant under his hand authorizing the truant officer named therein to enter that dwelling-house subject to such conditions as may be specified in the warrant.

(2.3) **Use of force.** — In executing a warrant issued under subsection (2.2), the truant officer named therein shall not use force unless he is accompanied by a peace officer and the use of force has been specifically authorized in the warrant.

(3) **Notice to attend school.** — Where a notice has been served in accordance with paragraph (2)(c) with respect to a child who is required by this Act to attend school, and the child does not within three days after the service of notice attend school and continue to attend school regularly thereafter, the person upon whom the notice was served is guilty of an offence and is liable on summary conviction to a fine of not more than five dollars or to imprisonment for a term not exceeding ten days, or to both.

(4) **Further notices.** — Where a person has been served with a notice in accordance with paragraph (2)(c), it is not necessary within a period of twelve months thereafter to serve that person with any other notice in respect of further non-compliance with the provisions of this Act, and whenever such person within the period of twelve months fails to cause the child with respect to whom the notice was served or any other child of whom he has charge or control to attend school and continue in regular attendance as required by this Act, such person is guilty of an offence and liable to the penalties imposed by subsection (3) as if he had been served with the notice.

(5) **Tardiness.** — A child who is habitually late for school shall be deemed to be absent from school.

(6) **Take into custody.** — A truant officer may take into custody a child whom he believes on reasonable grounds to be absent from school contrary to this Act and may convey the child to school, using as much force as the circumstances require.

120. (1) Denomination of teacher. — Where the majority of the members of a band belongs to one religious denomination, the school established on the reserve that has been set apart for the use and benefit of that band shall be taught by a teacher of that denomination.

(2) **Idem.** — Where the majority of the members of a band are not members of the same religious denomination and the band by a majority vote of those electors of the band who were present at a meeting called for the purpose requests that day schools on the reserve should be taught by a teacher belonging to a particular religious denomination, the school on that reserve shall be taught by a teacher of that denomination.

121. Minority religious denominations. — A Protestant or Roman Catholic minority of any band may, with the approval of and under regulations to be made by the Minister, have a separate day school or day school classroom established on the reserve unless, in the opinion of the Governor in Council, the number of children of school age does not so warrant.

122. Definitions. — In sections 114 to 122

“**child**”. — “child” means an Indian who has attained the age of six years but has not attained the age of sixteen years, and a person who is required by the Minister to attend school;

“**school**”. — “school” includes a day school, technical school, high school and a residential school;

“**truant officer**”. — “truant officer” includes

- (a) a member of the Royal Canadian Mounted Police,
- (b) a special constable appointed for police duty on a reserve; and
- (c) a school teacher and a chief of the band, when authorized by the superintendent.

CALCULATION OF INTEREST REGULATIONS

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CALCULATION OF INTEREST REGULATIONS

SOR/87-631

Regulations prescribing the manner of determining interest for the purpose of subsections 64.1(1) and (2) of the Indian Act

Short Title

1. These Regulations may be cited as the *Calculation of Interest Regulations*.

Interpretation

2. In these Regulations,

“**Act**”. — “Act” means the *Indian Act*; (*Loi*)

“**principal amount outstanding**”. — “principal amount outstanding” means the amount received by a person under paragraph 15(1)(a) of the Act, as it read immediately prior to April 17, 1985, or under any former provision of the Act relating to the same subject-matter as that paragraph, less the sum of one thousand dollars and less the amounts withheld under subsection 64.1(1) of the Act and the amounts repaid under subsection 64.1(2) of the Act in respect of that person; (*capital à rembourser*)

“**reinstatement**”. — “reinstatement” means the entering of the name of a person referred to in subsection 64.1(1) or (2) of the Act in a Band List. (*réintégration*)

Application

3. These Regulations apply to persons referred to in subsections 64.1(1) and (2) of the Act who make an application for reinstatement.

Calculation of Interest

4. For the purpose of subsections 64.1(1) and (2) of the Act, interest shall be calculated
 - (a) on the principal amount outstanding only;
 - (b) quarterly on the average month-end balance of the principal amount outstanding;
 - (c) at a rate equal to the quarterly average of the interest rates applied by the Bank of Canada to Government of Canada Treasury bills of terms of six months; and
 - (d) from the date referred to in section 5.

Accrual of Interest

5. (1) Where reinstatement of a person referred to in paragraph 11(1)(c) or 11(2)(a) of the Act is made, interest accrues from the later of

- (a) November 1, 1987; and
- (b) subject to subsection (2), the date of signature on the application for reinstatement.

(2) Where there is a difference of more than 30 days between the date of signature on an application for reinstatement and the date on which the application is received by the Registrar, interest shall accrue from the date on which the application is received by the Registrar.

(3) Where reinstatement of a person is made pursuant to membership rules made pursuant to section 10 of the Act, interest accrues from the later of

- (a) November 1, 1987; and
- (b) the date of reinstatement of the person.

Method of Applying Moneys Withheld or Repaid

6. Where an amount is withheld under subsection 64.1(1) of the Act or is repaid under subsection 64.1(2) of the Act, the amount shall be applied first against the principal amount outstanding, and second against accrued interest.

7. For the purposes of section 6, the effective date on which an amount is applied shall be

- (a) where the amount is withheld pursuant to subsection 64.1(1) of the Act, the date that the person would have been entitled to receive the amount but for that subsection; and
- (b) where the amount is repaid pursuant to subsection 64.1(2) of the Act, the date that the amount is received by the band.

DISPOSAL OF FORFEITED GOODS AND CHATTELS REGULATIONS

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DISPOSAL OF FORFEITED GOODS AND CHATTELS REGULATIONS

C.R.C. 1978, c. 948

Regulations respecting the disposal of goods and chattels ordered forfeited pursuant to subsection 103(3) of the Indian Act

Short Title

1. These Regulations may be cited as the *Disposal of Forfeited Goods and Chattels Regulations*.

Interpretation

2. In these Regulations, "Act" means the *Indian Act*.

General

3. Goods and chattels forfeited to Her Majesty pursuant to the provisions of subsection 103(3) of the Act shall be sold at public auction following advertisement published in such local papers as the Minister may designate.

4. Where any goods and chattels have been forfeited pursuant to subsection 103(3) of the Act, anyone (other than the person accused of an offence resulting in such forfeiture, or the person in possession of such goods and chattels when the offence was committed) who claims an interest in such goods and chattels as owner, mortgagee, lien-holder or holder of any like interest, may, within 30 days after such forfeiture, apply to the Minister for a determination of his interest.

5. Where, following such application, it appears to the satisfaction of the Minister,

(a) that the claimant is innocent of any complicity in the offence resulting in such forfeiture, or of any collusion with the offender in relation thereto, and

(b) that he exercised all reasonable care in respect of the person permitted to obtain the possession of such goods and chattels to satisfy himself that they were not likely to be used contrary to the provisions of the Act, or, if a mortgagee or lien-holder, that before becoming such mortgagee or lien-holder exercised such care with respect to the mortgagor or lien-giver,

the Minister may order that the interest of the claimant be not affected by such forfeiture.

6. Where the circumstances make it appear to the Minister that the goods and chattels forfeited pursuant to subsection 103(3) of the Act should in the public interest be disposed of otherwise than by public auction, the Minister may direct that they be otherwise disposed of, in which case the direction shall prescribe such conditions and restrictions as the Minister may deem necessary or advisable.

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INDIAN BAND COUNCIL BORROWING REGULATIONS

C.R.C. 1978, c. 949

Regulations respecting the borrowing of money by councils of bands and the dispositions of such moneys

Short Title

1. These Regulations may be cited as the *Indian Band Council Borrowing Regulations*.

General

2. The council of a band may borrow money for band projects or housing purposes and may make loans out of moneys so borrowed to members of the band for housing purposes, on such terms and conditions as may be determined by the council.

INDIAN BAND COUNCIL PROCEDURE REGULATIONS

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INDIAN BAND COUNCIL PROCEDURE REGULATIONS

C.R.C. 1978, c. 950

Regulations respecting procedure at Indian band council meetings

Short Title

1. These Regulations may be cited as the *Indian Band Council Procedure Regulations*.

Interpretation

2. In these Regulations,

“**Assistant Deputy Minister**”. — “Assistant Deputy Minister” means the Assistant Deputy Minister, Indian and Eskimo Affairs of the Department;

“**council**”. — “council” means the council of a Band elected pursuant to section 74 of the *Indian Act*;

“**Department**”. — “Department” means the Department of Indian Affairs and Northern Development;

“**Minister**”. — “Minister” means the Minister of Indian Affairs and Northern Development;

“**secretary**”. — “secretary” means the person appointed by the council of a band to record the minutes of the council meetings;

“**superintendent**”. — “superintendent” means the Superintendent or Senior Field Officer of the Indian Affairs Branch in charge of the Agency, and includes the Indian Commissioner for British Columbia, all Regional Supervisors, all Assistants Indian Agency, and any other officer acting under the instructions of the Minister or the Assistant Deputy Minister.

Meetings of the Council

3. (1) The first meeting of the council shall be held not later than one month after its election, on a day, hour and place to be stated in a notice given to each member of the council, and meetings shall thereafter be held on such days and at such times as may be necessary for the business of the council or the affairs of the band.

- (2) No member of a council may be absent from meetings of the council for three consecutive meetings without being authorized to do so by the chief of the band or superintendent, with the consent of the majority of the councillors of the band.

4. The chief of the band or superintendent may, at any time, summon a special meeting of the council, and shall summon a special meeting when requested to do so by a majority of the members of the council.

5. The superintendent shall notify each member of the council of the day, hour and place of the meeting.

Order and Proceedings

6. A majority of the whole council shall constitute a quorum, but where a council consists of nine or more members, five members shall constitute a quorum.

7. If no quorum is present within 1 hour after the time appointed for the meeting, the secretary shall call the roll and take the names of the members then present and the council shall stand adjourned until the next meeting.

8. The chief of the band or, with the consent of the majority of the councillors present at the meeting, the superintendent shall be the presiding officer.

9. (1) Upon a quorum being present, the presiding officer shall take the chair and call the meeting to order.

(2) A chairman shall be chosen

(a) in the absence of the chief, or

(b) where the superintendent is not chosen the presiding officer pursuant to section 8,

from among the members present who shall preside during the meeting or until the arrival of the chief or until the superintendent is chosen as the presiding officer.

10. The presiding officer shall maintain order and decide all questions of procedure.

11. The order of business at each regular meeting shall be as follows:

(a) reading (correction, if any) and adoption of the minutes of the previous meeting;

(b) unfinished business;

(c) presentation and reading of correspondence and petitions;

(d) presentation and consideration of reports of committees;

(e) new business;

(f) hearing depositions;

(g) adjournment.

12. Each resolution shall be presented or read by the mover, and when duly moved and seconded and placed before the meeting by the presiding officer, shall be open for consideration.

13. After a resolution has been placed before the meeting by the presiding officer it shall be deemed to be in the possession of the council, but it may be withdrawn by consent of the majority of the council members present.

14. When any member desires to speak, he shall address his remarks to the presiding officer and confine himself to the question then before the meeting.

15. In the event of more than one member desiring to speak at one time, the presiding officer shall determine who is entitled to speak.

16. (1) The presiding officer or any member may call a member to order while speaking and the debate shall then be suspended and the member shall not speak until the point of order is determined.

(2) The member may speak only once on a point of order.

17. Any member may appeal the decision of the presiding officer to the council and all appeals shall be decided by a majority vote and without debate.

18. (1) All questions before the council shall be decided by a majority vote of the councillors present.

(2) The presiding officer shall not be entitled to vote but whenever the votes are equal the presiding officer, other than the superintendent, shall cast the deciding vote.

19. Every member present when a question is put shall vote thereon unless the council excuses him or unless he is personally interested in the question, in which case he shall not be obliged to vote.

20. A member who refuses to vote shall be deemed to vote in the affirmative.

21. Whenever a division of the council is taken for any purpose, each member present and voting shall announce his vote upon the question openly and individually to the council and, when so requested by any member, the secretary shall record the same.

22. Any member may require the question or resolution under discussion to be read for his information at any period of the debate, but not so as to interrupt a member who is speaking.

23. (1) The regular meetings shall be open to members of the band, and no member shall be excluded therefrom except for improper conduct.

(2) The presiding officer may expel or exclude from any meeting any person who causes a disturbance at the meeting.

24. The council may at the first meeting thereof appoint in lieu of the committee of the whole council the following standing committees:

- (a) Finance;
- (b) Roads and Bridges; and
- (c) Welfare.

25. The council may appoint special committees on any matters as the interests of the band may require.

26. A majority of the members of a committee shall be a quorum.

27. The chief of the band shall *ex officio* be a member of all committees and be entitled to vote at all meetings thereof, and other members of the council may attend meetings of a committee and may with the consent of the committee take part in the discussion but shall not be entitled to vote.

28. The general duties of standing and special committees are,

- (a) to report to the council from time to time as often as the interests of the band may require, all matters connected with the duties imposed on them respectively and to recommend such action by the council in relation thereto as they may deem necessary and expedient; and
- (b) to consider and report upon all matters referred to them by the council or by the chief of the band.

29. Special meetings of committees shall be called at the request of the chairman or a majority of the committee or, in the absence of the chairman on request of the chief of the band or the superintendent.

30. Any representative of the Minister present at a council meeting may

- (a) address the council, and explain to and advise the members thereof upon their powers and duties;
- (b) explain to and advise the members thereof upon any question of procedure; and
- (c) give such information as may be requested by any member of the council relating to the administration of the affairs of the band.

31. The council may make such rules of procedure as are not inconsistent with these Regulations in respect of all matters not specifically provided for thereby, as it may deem necessary.

INDIAN BAND ELECTION REGULATIONS

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INDIAN BAND ELECTION REGULATIONS

C.R.C. 1978, c. 952, as am. SOR/85-409

Regulations governing Indian band elections

Short Title

1. These Regulations may be cited as the *Indian Band Election Regulations*.

Interpretation

2. In these Regulations

“**Act**”. — “Act” means the *Indian Act*;

“**Assistant Deputy Minister**”. — “Assistant Deputy Minister” means the Assistant Deputy Minister, Indian and Eskimo Affairs of the Department of Indian Affairs and Northern Development;

“**deputy electoral officer**”. — “deputy electoral officer” means any person appointed by the electoral officer for the purposes of an election;

“**election**”. — “election” means a band election held pursuant to the provisions of the Act;

“**elector**”. — “elector” means a person who

- (a) is registered on a Band List,
- (b) is of the full age of 21 years, and
- (c) is not disqualified from voting at band elections;

“**electoral officer**”. — “electoral officer” means the superintendent or the person appointed by the council of the band with the approval of the Minister;

“**Minister**”. — “Minister” means the Minister of Indian Affairs and Northern Development;

“**Superintendent**”. — “Superintendent” means the Superintendent or senior field officer of the Indian Affairs Branch in charge of the agency [and includes the Indian Affairs Branch in charge of the agency] [sic] and includes the Indian Commissioner for British Columbia, all Regional Supervisors and any other officer acting under the instructions of the Minister or Assistant Deputy Minister.

Definition of Residence for the Purpose of Determining the Eligibility of Voters

3. The following rules apply to the interpretation of the words “ordinary resident” in respect of all matters pertaining to the right of an elector to vote in an election:

- (a) subject to the other provisions of this section, the question as to where a person is or was ordinarily resident at any material time or during any material period shall be determined by reference to all the facts of the case;
- (b) the place of ordinary residence of a person is, generally, that place which has always

been, or which he has adopted as, the place of his habitation or home, whereto, when away therefrom, he intends to return and, specifically, where a person usually sleeps in one place and has his meals or is employed in another place, the place of his ordinary residence is where that person sleeps;

(c) a person can have one place of ordinary residence only, and he shall retain such place of ordinary residence until another is acquired;

(d) temporary absence from a place of ordinary residence does not cause a loss or change of place of ordinary residence.

Nomination Meeting

4. (1) When an election is to be held, the electoral officer shall post a notice, in the form prescribed, of a meeting of the electors for the purpose of nominating candidates for election; such notice shall be posted in one or more conspicuous places in each electoral section at least 6 clear days prior to the date of the proposed nomination meeting and at least 12 clear days prior to the date set for the election.

(2) Where it is not practicable to hold a meeting for the nomination of candidates in accordance with the provisions of subsection (1), the Assistant Deputy Minister may order that the meeting be held on a date not less than 6 clear days before the day on which the election is to be held.

(3) At the time and place specified in the notice, the electoral officer shall declare the meeting open for the purpose of receiving nominations, and any person who is an elector may propose or second the nomination of any duly qualified person to serve as a chief or councillor, and the meeting shall remain open for not less than 2 hours after commencement when, if the number of persons nominated to serve on the band council does not exceed the requisite number, the electoral officer shall declare the persons so nominated to be duly elected.

(4) The electoral officer shall not close the nomination meeting until such business as he considers may properly be brought before it has been disposed of.

(5) In the event of more than the required number of persons being nominated for chief and councillors, the electoral officer shall declare that a poll will be held and shall name the time and the place where such poll shall be taken.

(6) Whenever a poll is to be taken, the electoral officer shall, without any unreasonable delay after the nomination, cause to be posted in one or more conspicuous places within the electoral section a notice to that effect in the form prescribed. SOR/85-409, s. 1.

Manner in Which Voting Shall be Carried Out

5. (1) The electoral officer shall prepare a voters' list containing the names, in alphabetical order, of all electors.

(2) The electoral officer shall post one or more copies of the voters' list in a conspicuous place in the electoral section, and where a reserve is divided into more than one section, he shall post one or more copies of the voters' list in a conspicuous place in each section.

(3) Any elector may apply to have the voters' list revised on the ground that the name of

an elector is incorrectly set out therein or the name of a person not qualified to vote is included therein.

(4) If the electoral officer is satisfied that a list should be corrected, he shall make the necessary correction therein.

(5) Ballot papers shall be prepared in the prescribed form containing the names of candidates for chief and for councillors, which names shall be listed on the ballot papers in alphabetical order.

(6) Any candidate who has been nominated may withdraw at any time after his nomination, but not later than 48 hours before the time of the opening of the poll, by filing with the electoral officer a written withdrawal of his nomination, signed by himself in the presence of the electoral officer, a justice of the peace, a notary public, or a commissioner for oaths, and any votes cast for any such candidates shall be null and void.

(7) The electoral officer shall procure or cause to be procured as many ballot boxes as there are polling places, and shall cause to be prepared a sufficient number of ballot papers for the purpose of the election.

(8) The electoral officer shall, before the poll is open, cause to be delivered to his deputy the ballot papers, materials for marking the ballot papers, and a sufficient number of directions-for-voting as may be prescribed.

(9) The electoral officer or his deputy shall provide a compartment at each polling place where the electors can mark their ballot papers free from observation, and he may appoint a constable to maintain order at such polling place.

(10) The poll shall be kept open from 9 o'clock (standard time) in the forenoon until 6 o'clock (standard time) in the afternoon of the same day, but where it appears to the electoral officer that it would be inconvenient to the electors to have the poll closed at 6 o'clock, he may order that it be kept open until not later than 8 o'clock (standard time) of the afternoon of the same day.

(11) A candidate shall be entitled to not more than two agents in a polling place at any one time.

(12) Voting at all elections shall be by ballot in the manner set forth in section 6.

(13) The electoral officer or his deputy shall, immediately before the commencement of the poll, open the ballot box and call such persons as may be present to witness that it is empty; he shall then lock and properly seal the box to prevent it being opened without breaking the seal and shall place it in view for the reception of the ballots, and the seal shall not be broken nor the box unlocked during the time appointed for taking the poll.

(14) At the request of any candidate or his agent or any elector, an oath or affirmation in the form prescribed as to his rights to vote shall be administered to any person tendering his vote at any election.

The Poll

6. (1) Where a person presents himself for the purpose of voting, the electoral officer or his deputy shall, if satisfied that the name of such person is entered on the voters' list at the polling place, provide him with a ballot paper on which to register his vote.

(2) The electoral officer or his deputy shall cause to be placed in the proper column of the voters' list a mark opposite the name of every voter receiving a ballot paper.

(3) No person who has refused to take the oath or affirmation referred to in subsection 5(14) when requested so to do shall receive a ballot paper or be permitted to vote.

(4) The electoral officer or his deputy may and when requested to do so shall explain the mode of voting to a voter.

(5) Each person receiving a ballot paper shall forthwith proceed to the compartment provided for marking ballots and shall mark his ballot paper by placing a cross opposite the name of the candidate or candidates for whom he desires to vote; he shall then fold the ballot paper so as to conceal the names of the candidates and the marks on the face of the paper but so as to expose the initials of the electoral officer or his deputy, and on leaving the compartment shall forthwith deliver the ballot paper to the electoral officer or his deputy, who shall, without unfolding the ballot paper, verify his initials and at once deposit it in the ballot box in the presence of the voter and all other persons entitled to be present in the polling place.

(6) While any voter is in the compartment for the purpose of marking his ballot paper, no other person shall, except as provided in subsection (7), be allowed in the same compartment or be in any position from which he can see the manner in which such voter marks his ballot paper.

(7) The electoral officer or his deputy, on the application of any voter who is unable to read or is incapacitated by blindness or other physical cause from voting in the manner prescribed by subsection (5), shall assist such voter by marking his ballot paper in the manner directed by the voter in the presence of the agents of the candidates in the polling place and of no other person, and place such ballot in the ballot box.

(8) The electoral officer or his deputy shall state in the voters' list in the column for remarks opposite the name of such elector the fact that the ballot paper was marked by him at the request of the voter and the reasons therefor.

(9) A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used shall, upon returning it to the electoral officer or his deputy, be entitled to obtain another ballot paper, and the electoral officer or his deputy shall thereupon write the word "cancelled" upon the spoiled ballot paper and preserve it.

(10) Any person who has received a ballot paper and who leaves the polling place without delivering the ballot paper to the electoral officer or his deputy, in the manner provided, or if, after receiving the ballot paper, refuses to vote, shall forfeit his right to vote at the election, and the electoral officer or his deputy shall make an entry in the voters' list in the column for remarks opposite the name of such person to show that such person received the ballot paper and declined to vote, and the electoral officer or his deputy shall mark upon the face of the ballot paper the word "declined", and all ballot papers so marked shall be preserved.

(11) An elector whose name does not appear on the voters' list may vote at an election if the electoral officer or his deputy is satisfied that such person is qualified to vote.

(12) Every elector who is inside the polling place at the time fixed for closing the poll shall be entitled to vote before the poll is closed.

7. Immediately after the close of the poll the electoral officer or his deputy shall, in the presence of such of the candidates or their agents as may be present, open the ballot box and

(a) examine the ballot papers and reject all ballot papers

- (i) that have not been supplied by him,
- (ii) by which votes have been given for more candidates than are to be elected, or
- (iii) upon which anything appears by which the voter can be identified, but no word, letter, or marks written or made or omitted to be written or made by the electoral officer or his deputy on a ballot paper shall avoid it or warrant its rejection;

(b) declare a ballot paper containing the names of candidates for more than one office, on which votes are given for more candidates for any office than are to be elected, to be void as regards all the candidates for such office; but such ballot paper shall be good as regard the votes for any other offices in respect of which the voter has not voted for more candidates than are to be elected;

(c) subject to review on account or on an election appeal, take a note of any objection made by any candidate or his agent to any ballot paper found in the ballot box and decide any questions arising out of the objection;

(d) number such objection and place a corresponding number on the back of the ballot paper with the word "allowed" or "disallowed", as the case may be, with his initials;

(e) count the votes given for each candidate from the ballot papers not rejected and make a written statement of the number of votes given to each candidate and the number of ballot papers rejected and counted by him, which statement shall be then signed by him and such other persons authorized to be present as may desire to sign the statement.

8. Immediately after the completion of the counting of the votes the electoral officer shall publicly declare to be elected the candidate or candidates having the highest number of votes, and he shall also post in some conspicuous place a statement signed by him showing the number of votes cast for each candidate.

9. Where it appears that two or more candidates have an equal number of votes, the electoral officer shall give a casting vote for one or more of such candidates, but the electoral officer shall not otherwise be entitled to vote.

10. (1) The electoral officer shall prepare a statement in triplicate showing the total number of votes cast for each candidate, the number of rejected ballots and the names of the candidates duly declared elected.

(2) One copy of such statement shall be forwarded to the Assistant Deputy Minister, one to the regional supervisor or the Indian commissioner for the Province of British Columbia, and one copy filed in the agency office.

(3) The statement shall be signed by the electoral officer and such of the candidates or their agents as are present and desire to sign it.

Disposition of Ballot Papers

11. The electoral officer shall deposit all ballot papers in sealed envelopes with the superintendent, who shall retain them in his possession for eight weeks, and unless otherwise directed by the Minister or by a person authorized by him shall then destroy the ballot papers in the presence of two witnesses who shall make a declaration that they witnessed the destruction of those papers.

Election Appeals

12. (1) Within 30 days after an election, any candidate at the election or any elector who gave or tendered his vote at the election who has reasonable grounds for believing that

- (a) there was corrupt practice in connection with the election,
- (b) there was a violation of the Act or these Regulations that might have affected the result of the election, or
- (c) a person nominated to be a candidate in the election was ineligible to be a candidate,

may lodge an appeal by forwarding by registered mail to the Assistant Deputy Minister particulars thereof duly verified by affidavit.

(2) Where an appeal is lodged pursuant to subsection (1), the Assistant Deputy Minister shall, within 7 days of the receipt of the appeal, forward a copy of the appeal together with all supporting documents by registered mail to the electoral officer and to each candidate in the electoral section.

(3) Any candidate may, within 14 days of the receipt of the copy of the appeal, forward to the Assistant Deputy Minister by registered mail a written answer to the particulars set out in the appeal together with any supporting documents relating thereto duly verified by affidavit.

(4) All particulars and documents filed in accordance with the provisions of this section shall constitute and form the record. SOR/85-409, s. 4.

13. (1) The Minister may, if the material that has been filed is not adequate for deciding the validity of the election complained of, conduct such further investigation into the matter as he deems necessary, in such manner as he deems expedient.

(2) Such investigation may be held by the Minister or by any person designated by the Minister for the purpose.

(3) Where the Minister designates a person to hold such an investigation, that person shall submit a detailed report of the investigation to the Minister for his consideration.

14. Where it appears that

- (a) there was corrupt practice in connection with an election,
- (b) there was a violation of the Act or these Regulations that might have affected the result of an election, or
- (c) a person nominated to be a candidate in an election was ineligible to be a candidate,

the Minister shall report to the Governor in Council accordingly.

Secrecy of Voting

15. (1) Every person in attendance at a polling place or at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting.

(2) No person shall interfere or attempt to interfere with a voter when marking his ballot paper or obtain or attempt to obtain at the polling place information as to how a voter is about to vote or has voted.

16. The Minister may make such orders and issue such instructions as he may deem necessary from time to time for the effective administration of these Regulations.

17. Such forms as are required for the purposes of these Regulations shall be prescribed by the Minister.

18. Any person who violates any of the provisions of these Regulations is subject to the penalties provided by section 102 of the Act.

INDIAN BAND REVENUE MONEYS ORDER

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INDIAN BAND REVENUE MONEYS ORDER

SOR/90-297, as am. SOR/93-244, s. 24

Order respecting the control, management and expenditure of revenue moneys

Short Title

1. This Order may be cited as the *Indian Band Revenue Moneys Order*.

General

2. The bands listed in the schedule are hereby permitted to control, manage and expend in whole their revenue moneys.

SCHEDULE

(Section 2)

Provinces of New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland

Abegweit
Acadia
Afton
Annapolis Valley
Bear River
Big Cove
Burnt Church
Chapel Island
Edmundston
Eel Ground
Eel River
Eskasoni
Fort Folly
Kingsclear
Lennox Island
Membertou
Millbrook
Oromocto
Papineau
Pictou Landing
Red Bank
Saint Mary's
Shubenacadie
Tobique
Wagmatcook
Whycocomagh

Woodstock*Province of Quebec*

Abenakis De Wolinak
Abitibiwinni
Betsiamites
Cree Nation of Chisasibi
Cree Nation of Wemindji
Kahnawake
Kipawa
Kitigan Zibi Anishinabeg
Lac Simon
Les Atikamekw de Manawan
Long Point First Nation
Micmacs of Gesgapegiag
Mingan
Mistissini
Montagnais de Natashquan
Montagnais du Lac Saint Jean
Naskapi of Quebec
Nation Huronne-Wendat
Obedjiwan
Odanak
Première Nation de Whapmagoostui
Restigouche
Timiskaming
Uashat Mak Mani-Utenam
Waskaganish
Waswanipi
Weymontachie

Province of Ontario

Anishinabe of Wauzhushk Onigum
Attawapiskat
Batchewana First Nation
Beausoleil
Big Grassy
Big Island
Big Trout Lake
Brunswick House
Chapleau Ojibway
Chippewas of Georgina Island
Chippewas of Kettle Point & Stony Point
Chippewas of Nawash
Chippewas of Rama First Nation
Chippewas of Sarnia
Chippewas of the Thames First Nation
Constance Lake
Couchiching

Curve Lake
 Dalles
 Deer Lake
 Dokis
 Eabametoong First Nation
 Eagle Lake
 Fort William
 Garden River First Nation
 Ginoogaming First Nation
 Golden Lake
 Grassy Narrows First Nation
 Henvey Inlet
 Hiawatha First Nation
 Lac Des Mille Lacs
 Lac la Croix
 Lac Seul
 Long Lake No. 58 First Nation
 Martin Falls
 Matachewan
 Mattagami
 Michipicoten
 Mississauga
 Mississauga's of Scugog Island First Nation
 Mississaugas of the Credit
 Mohawks of Akwesasne
 Mohawks of the Bay of Quinte
 Moose Deer Point
 Moose Factory
 Moravian of the Thames
 Munsee-Delaware Nation
 Naicatchewenin
 New Post
 Nicickousemenecaning
 Nipissing
 Northwest Angle No. 33
 Northwest Angle No. 37
 Ojibways of Onegaming
 Onyota'a:ka
 Osnaburgh
 Pikangikum
 Rainy River
 Red Rock
 Rocky Bay
 Sagamok Anishnawbek
 Saugeen
 Seine River
 Serpent River
 Shawanaga
 Sheguiandah

Sched.

INDIAN BAND REVENUE MONEYS ORDER

Sheshegwaning
Shoal Lake No. 39
Shoal Lake No. 40
Six Nations of the Grand River
Stanjikoming First Nation
Sucker Creek
Thessalon
Timagami
Wabaseemoong
Wabauskang
Wabigoon Lake Ojibway Nation
Wahta Mohawk
Walpole Island
Wasauksing First Nation
West Bay
Whitefish Bay
Whitefish Lake
Whitefish River
Wikwemikong

Province of Manitoba

Barren Lands
Berens River
Birdtail Sioux
Bloodvein
Broken Ojibway Nation
Buffalo Point First Nation
Chemawawin First Nation
Crane River
Ebb and Flow
Fairford
Fisher River
Fort Alexander
Gamblers
Garden Hill First Nations
God's Lake
Grand Rapids First Nation
Hollow Water
Jackhead
Keeseekoowenin
Lake St. Martin
Little Black River
Little Grand Rapids
Little Saskatchewan
Long Plain
Mathias Colomb
Moose Lake
Norway House
Oak Lake

Opaskwayak Cree Nation

Oxford House

Peguis

Pine Creek

Poplar River First Nation

Red Sucker Lake

Rolling River

Roseau River

Sandy Bay

Shoal River

Sioux Valley

St. Theresa Point

Swan Lake

Valley River

Waterhen

Waywayseecappo First Nation Treaty 4-1874

Province of Saskatchewan

Beardy's and Okemasis

Buffalo River

Canoe Lake

Cote

Cowessess

Cumberland House

Day Star

English River

Fishing Lake

Flying Dust

Gordon

Island Lake

James Smith

John Smith

Joseph Bighead

Kahkewistahaw

Kawacatoose

Keeseekoose

Key

Kinistin

Lac La Ronge

Little Black Bear

Little Pine

Mistawasis

Montreal Lake

Moose Woods

Moosomin

Mosquito-Grizzly Bear's Head

Muskeg Lake

Muskowekwan

Ochapowace

Sched.

INDIAN BAND REVENUE MONEYS ORDER

Okanese
One Arrow
Onion Lake
Pasqua
Peepeekisis
Piapot
Poundmaker
Red Earth
Red Pheasant
Sakimay
Saulteaux
Shoal Lake Band of the Cree Nation
Standing Buffalo
Star Blanket
Sturgeon Lake
Sweet Grass
Thunderchild
Wahpeton
Waterhen Lake
White Bear
Wood Mountain
Yellowquill

Province of Alberta

Alexander
Alexis
Beaver First Nation
Beaver Lake
Bigstone Cree
Blood
Cold Lake First Nations
Dene Tha'
Driftpile
Duncan's
Enoch
Ermineskin
Fort McMurray #468 First Nation
Frog Lake
Grouard
Heart Lake
Horse Lake
Little Red River Cree Nation
Long Lake Cree Nation
Louis Bull
Montana
O'Chiese
Paul
Peigan Nation
Pigeon Lake Reserve

Saddle Lake
Samson
Sawridge
Siksika Nation
Stoney
Sturgeon Lake
Sucker Creek
Suncild First Nation
Swan River
Tallcree
Tsuu T'ina Nation
Whitefish Lake

Province of British Columbia

Adams Lake
Ahousaht
Alexis Creek
Alkali Lake
Anderson Lake
Ashcroft
Beecher Bay
Blueberry River
Boothroyd
Boston Bar
Bridge River
Broman Lake
Burns Lake
Burrard
Campbell River
Canim Lake
Canoe Creek
Cape Mudge
Cayoose Creek
Chawathil
Cheam
Chehalis
Chemainus
Cheslatta Carrier Nation
Coldwater
Columbia Lake
Comox
Cowichan
Cowichan Lake
Ditidaht
Doig River
Douglas
Ehattesaht
Esquimalt
Fort Nelson

Sched.

INDIAN BAND REVENUE MONEYS ORDER

Gitanmaax
Gitlakdamix
Gitsegukla
Gitwangak
Gitwinksihlkw
Glen Vowell
Halalt
Halfway River
Hartley Bay
Heiltsuk
Hesquiaht
Homalco
Iskut
Kamloops
Kanaka Bar
Katzie
Kincolith
Kispiox
Kitamaat
Kitasoo
Kitkatla
Kitselas
Kitsumkalum
Klahoose
Kwa-wa-aineuk
Kwichsutaineuk-ah-kwaw-ah-mish
Kyuquot
Kakahahmen
Lakahahmen
Lakalzap
Lake Babine
Langley
Lax Kw'alaams
Lheit Lit'en Nation
Lillooet
Little Shuswap Lake
Lower Kootenay
Lower Nicola
Lower Simiklameen
Lyackson
Lytton
Malahat
Matsqui McLeod Lake
Metlakatla
Moricetown
Mount Currie
Mowachaht
Musqueam
Nadleh Whuten

Nak'azdli
Nanaimo
Nanoose
Nemaiah Valley
Neskonlith
Nicomen
Nimpkish
Nooaitch
North Thompson
Nuxalk Nation
Ohiaht
Okanagan
Old Massett Village Council
Opetchesaht
Osoyoos
Oweekeno
Pacheenaht
Pauquachin
Pavilion
Penelakut
Penticton
Peters
Popkum
Prophet River
Qualicum
Quatsino
Red Bluff
Samahquam
Saulteau
Scowlitz
Seabird Island
Sechelt
Semiahmoo
Seton Lake
Shackan
Sheshaht
Shuswap
Siska
Skawahlook
Skeetchestn
Skidegate
Skookumchuck
Skwah
Sliammon
Soda Creek
Songhees
Sooke
Soowahlie
Spallumcheen

Spuzzum
 Squamish
 St Mary's
 Stellaquo
 Stone
 Stony Creek
 Sumas
 Tahltan
 Takla Lake
 Tl'azt'en Nations
 Tla-o-qui-aht First Nation
 Tobacco Plains
 Toosey
 Toquaht
 Tsartlip
 Tsawataineuk
 Tsawout
 Tsawwassen
 Tseycum
 Uchucklesaht
 Ucluelet
 Ulkatcho
 Upper Nicola
 Upper Similkameen
 West Moberly
 Westbank
 Whispering Pines
 Williams Lake
 Yale

Yukon and Northwest Territories

Carcross-Tagish First Nations
 Fort Liard
 Hay River
 Kwanlin Dun First Nation
 Teslin Tlingit Council SOR/93-244, s. 24

INDIAN BANDS COUNCIL METHOD OF ELECTION REGULATIONS

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INDIAN BANDS COUNCIL METHOD OF ELECTION REGULATIONS

SOR/90-46, as am. SOR/92-366

SCHEDULE

PART I

ORDERS REVOKED

1. Order in Council P.C. 1951-6015 dated November 12, 1951
2. Order in Council P.C. 1952-1701 dated March 25, 1952
3. Order in Council P.C. 1952-3334 dated June 17, 1952
4. Order in Council P.C. 1952-3692 dated August 6, 1952
5. Order in Council P.C. 1952-4283 dated October 15, 1952
6. Order in Council P.C. 1952-4507 dated November 19, 1952
7. Order in Council P.C. 1952-4606 dated December 10, 1952
8. Order in Council P.C. 1953-34 dated January 14, 1953
9. Order in Council P.C. 1953-35 dated January 14, 1953
10. Order in Council P.C. 1953-68 dated January 22, 1953
11. Order in Council P.C. 1953-220 dated February 19, 1953
12. Order in Council P.C. 1953-266 dated February 26, 1953
13. Order in Council P.C. 1953-781 dated May 18, 1953
14. Order in Council P.C. 1953-999 dated July 2, 1953
15. Order in Council P.C. 1953-1413 dated September 17, 1953
16. Order in Council P.C. 1953-1464 dated September 24, 1953
17. Order in Council P.C. 1953-1501 dated September 29, 1953
18. Order in Council P.C. 1953-1827 dated November 26, 1953
19. Order in Council P.C. 1954-593 dated April 22, 1954
20. Order in Council P.C. 1954-929 dated June 24, 1954
21. Order in Council P.C. 1954-1097 dated July 22, 1954
22. Order in Council P.C. 1955-796 dated June 2, 1955
23. Order in Council P.C. 1955-913 dated June 23, 1955
24. Order in Council P.C. 1956-595 dated April 19, 1956
25. Order in Council P.C. 1956-663 dated May 3, 1956
26. Order in Council P.C. 1962-35 dated January 11, 1962
27. Order in Council P.C. 1962-1048 dated July 25, 1962
28. Order in Council P.C. 1963-1483 dated October 10, 1963
29. Order in Council P.C. 1964-223 dated February 13, 1964
30. Order in Council P.C. 1966-1216 dated June 30, 1966
31. Order in Council P.C. 1968-721 dated April 17, 1968
32. Order in Council P.C. 1969-1979 dated October 15, 1969
33. Order in Council P.C. 1969-2070 dated October 29, 1969
34. Order in Council P.C. 1971-19 dated January 12, 1971
35. Order in Council P.C. 1971-204 dated February 2, 1971
36. Order in Council P.C. 1971-385 dated March 2, 1971

37. Order in Council P.C. 1971-2573 dated November 23, 1971
38. Order in Council P.C. 1971-2803 dated December 21, 1971
39. Order in Council P.C. 1972-2168 dated September 14, 1972
40. Order in Council P.C. 1972-2630 dated November 16, 1972
41. Order in Council P.C. 1976-1092 dated May 11, 1976
42. Order in Council P.C. 1976-1360 dated June 8, 1976
43. Order in Council P.C. 1977-1655 dated June 16, 1977
44. Order in Council P.C. 1978-593 dated March 2, 1978
45. Order in Council P.C. 1978-1282 dated April 20, 1978
46. Order in Council P.C. 1978-2924 dated September 27, 1978
47. Indian Bands Election Order, C.R.C., c. 951
48. Order in Council P.C. 1981-3168 dated November 5, 1981
49. Grassy Narrows Indian Band Order made by Order in Council P.C. 1983-2134 dated July 14, 1983
50. Chiefs and Councillors of the Shoal River Indian Band Elections Order made by Order in Council P.C. 1985-2444 dated August 7, 1985
51. Forst Nelson Band of Indian Election Order in Council made by Order P.C. 1985-2763 dated September 12, 1985
52. Chiefs of the Mohawks of Akwesasne Band of Indians Election Order made by Order in Council P.C. 1986-1399 dated June 12, 1986

PART II

Regulations providing for the method of electing the chief and councillors of certain Indian bands and the division of certain reserves into electoral sections

Short Title

1. These Regulations may be cited as the *Indian Bands Council Method of Election Regulations*.

Method of Election

2. The chief and the councillors of each band set out in Schedule I shall be elected by a majority of the votes of the electors of the band.

3. The councillors of each band set out in Schedule II shall be elected by a majority of the votes of the electors of the band and the chief of each of those bands shall be elected by a majority of the votes of the elected councillors of the band from among themselves, but the chief so elected shall remain a councillor.

4. The reserve of each band set out in column I of an item of Schedule III shall for voting purposes be divided into the number of electoral sections set out in column II of that item and those sections shall be distinguished and identified in accordance with the number and description in column III of that item.

5. The chief of each band set out in column I of an item of Schedule III shall be elected by a majority of the votes of the electors of the band, and the councillors of each of those bands

Sched. I INDIAN BANDS COUNCIL METHOD OF ELECTION REGULATIONS

shall be elected by a majority of the votes of the electors of the band in the electoral section in which the candidate resides and that the candidate proposes to represent on the council of the band.

SCHEDULE I

(Section 2)

BANDS WHOSE CHIEF AND COUNCILLORS ARE ELECTED BY THE ELECTORS

PART I

British Columbia

Item	Band
1.	Adams Lake
2.	Alexandria
3.	Alexis Creek
4.	Alkali Lake
5.	Anaham
6.	Anderson Lake
7.	Ashcroft
8.	Beecher Bay
9.	Bella Coola
10.	Blueberry River
11.	Bonaparte
12.	Boothroyd
13.	Boston Bar
14.	Bridge River
15.	Burns Lake
16.	Burrard
17.	Campbell River
18.	Cape Mudge
19.	Chawathil
20.	Cheam
21.	Chehalis
22.	Chemainus
23.	Clayoquot
24.	Comox
25.	Cook's Ferry
26.	Cowichan
27.	Doig River
28.	Fort George
29.	Fraser Lake
30.	Gitanmaax
31.	Gitlakdamix
32.	Gitsegukla

- 33. Gitwangak
- 34. Glen Vowell
- 35. Hagwilget
- 36. Halalt
- 37. Halfway River
- 38. Kincolith
- 39. Kispiox
- 40. Kitamaat
- 41. Kitselas
- 42. Kitsumkalum
- 43. Kitwancool
- 44. Klahoose
- 45. Kwicksutaineuk-Ah-Kwaw-Ah-Mish
- 46. Lakahahmen
- 47. Lakalzap
- 48. Lax Kw'alaams
- 49. Lower Nicola
- 50. Lytton
- 51. Malahat
- 52. Matsqui
- 53. Metlakatla
- 54. Moricetown
- 55. Mount Currie
- 56. Musqueam
- 57. Nanaimo
- 58. Nanoose
- 59. Nazko
- 60. Neskainlith
- 61. Nicomen
- 62. Nooaitch
- 63. North Thompson
- 64. Ohiaht
- 65. Okanagan
- 66. Opetchesht
- 67. Osoyoos
- 68. Oweekeno
- 69. Pacheenaht
- 70. Pauquachin
- 71. Penelakut
- 72. Peters
- 73. Qualicum
- 74. Quatsino
- 75. Red Bluff
- 76. Scowlitz
- 77. Seabird Island
- 78. Semiahmoo
- 79. Shackan
- 80. Skidegate
- 81. Skowkale

Sched. I INDIAN BANDS COUNCIL METHOD OF ELECTION REGULATIONS

82.	Skwah
83.	Sliammon
84.	Soda Creek
85.	Songhees
86.	Sooke
87.	Soowahlie
88.	Spallumcheen
89.	Squiala
90.	Stellaquo
91.	Stone
92.	Stony Creek
93.	Sumas
94.	Tahltan
95.	Toosey
96.	Tsartlip
97.	Tsawout
98.	Tsawwassen
99.	Tseycum
100.	Tzeachten
101.	Ucluelet
102.	Upper Nicola
103.	Upper Similkameen
104.	Westbank
105.	Whispering Pines
106.	Williams Lake

PART II

Alberta

Item	Band
1.	Bigstone Cree
2.	[Revoked SOR/92-366, s. 1.]
3.	Driftpile
4.	Duncan's
5.	Enoch
6.	Fort McMurray
7.	Frog Lake
8.	[Revoked SOR/92-366, s. 2.]
9.	[Revoked SOR/92-366, s. 2.]
10.	O'Chiese
11.	Paul
12.	Samson
13.	Sarce
14.	Sawridge
15.	Siksika Nation
16.	Sturgeon Lake

17. Sucker Creek
18. Sunchild Cree
19. Swan River
20. Whitefish Lake

SOR/92-366

PART III*Saskatchewan*

Item	Band
1.	Ahtahkakoop
2.	Beardy's and Okemasis
3.	Canoe Lake
4.	Carry the Kettle
5.	Day Star
6.	English River
7.	Fishing Lake
8.	Flying Dust
9.	Gordon
10.	Island Lake
11.	John Smith
12.	Kahkewistahaw
13.	Keeseekoosew
14.	Key
15.	Kinistin
16.	Lac La Ronge
17.	Makwa Sahgaiehc
18.	Mistawasis
19.	Moosomin
20.	Mosquito-Grizzly Bear's Head
21.	Muscowpetung
22.	Muskowekwan
23.	Muskeg Lake
24.	Nut Lake
25.	Ochapowace
26.	Onion Oake
27.	Pasqua
28.	Peepeekisis
29.	Pelican Lake
30.	Piapot
31.	Poorman
32.	Red Pheasant
33.	Sakimay
34.	Standing Buffalo
35.	Sweet Grass
36.	Thunderchild

Sched. I INDIAN BANDS COUNCIL METHOD OF ELECTION REGULATIONS

37. Waterhen Lake
 38. White Bear
 39. William Charles
 40. Witchehan Lake
-

PART IV

Manitoba

Item	Band
1.	Berens River
2.	Birdtail Sioux
3.	Bloodvein
4.	Brokenhead
5.	Chemawawin First Nation
6.	Crane River
6.1	Cross Lake
7.	Ebb and Flow
8.	Fairford
9.	Fisher River
10.	Forst Alexander
11.	God's Lake
12.	Hollow Water
13.	Indian Birch
14.	Jackhead
15.	Keeseekoowenin
16.	Lake Manitoba
17.	Lake St. Martin
18.	Little Black River
19.	Little Grand Rapids
20.	Little Saskatchewan
21.	Mathias Columb
22.	Moose Lake
23.	Nelson House
24.	Northlands
25.	Oak Lake
26.	Oxford House
27.	Peguis
28.	Pine Creek
29.	Poplar River First Nation
30.	Rolling River
31.	[Revoked SOR/92-366, s. 4.]
32.	Shoal River
33.	Sioux Valley
34.	Split Lake
35.	Swan Lake
36.	The Pas

37. Valley River
38. Waterhen
39. Waywayseecappo

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PART V*Ontario*

Item	Band
1.	Alderville
2.	Batchewana
3.	Beausoleil
4.	Big Grassy
5.	Big Island
6.	Brunswick House
7.	Chippewas of Georgina Island
8.	Chippewas of Kettle and Stony Point
9.	Chippewas of Nawash
10.	Chippewas of Rama
11.	Chippewas of Sarnia
12.	Chippewas of the Thames First Nation
13.	Constance Lake
14.	Couchiching
15.	Curve Lake
16.	Dokis
17.	Eagle Lake
18.	Fort Hope
19.	Fort William
20.	Garden River
21.	Ginoogaming First Nation
22.	Golden Lake
23.	Grassy Narrows
24.	Gull Bay
25.	Henvey Inlet
26.	Hiawatha First Nation
27.	Islington
28.	Lac La Croix
29.	Long Lake No. 58
30.	Magnetawan
31.	Martin Falls
32.	Matachewan
33.	Mattagami
34.	Michipicoten
35.	Mississauga
36.	Mississaugas of the Credit
37.	Mohawks of the Bay of Quinte

Sched. I INDIAN BANDS COUNCIL METHOD OF ELECTION REGULATIONS

38. Moose Deer Point
39. Moose Factory
40. Naicatchewenin
41. Nicickousemenecaning
42. Nipissing
43. Northwest Angle No. 33
44. Northwest Angle No. 37
45. Ojibways of Onegaming
46. Oneidas of the Thames
47. Osnaburgh
48. Parry Island First Nation
49. Pic Heron Bay
50. Pic Mobert
51. Rainy River
52. [Revoked SOR/92-366, s. 5.]
53. Saugeen
54. Scugog
55. Seine River
56. Serpent River
57. Shawanaga
58. Sheguiandah
59. Sheshegwaning
60. Shoal Lake No. 39
61. Shoal Lake No. 40
62. Spanish River
63. Sucker Creek
64. Thessalon
65. Wabigoon Lake Ojibway Nation
66. Walpole Island
67. Washagamis Bay
68. West Bay
69. Whitefish Bay
70. Whitefish Lake
71. Whitefish River
72. Wikwemikong

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PART VI

Quebec

Item	Band
1.	Abénakis de Wôlinak
2.	Betsiamites
3.	Kipawa
4.	Manowan
5.	Micmacs of Gesgapegiag

6. Montagnais de Uashat et Malietenam
7. [Revoked SOR/92-366, s. 6.]
8. Nation Huronne Wendat
9. Odanak
10. Restigouche
11. River Desert
12. Timiskaming

SOR/92-366

PART VII*New Brunswick*

Item	Band
1.	Big Cove
2.	Burnt Church
3.	Edmundston
4.	Eel Ground
5.	Eel River
6.	Fort Folly
7.	Indian Island
8.	Kingsclear
9.	Oromocto
10.	Pabineau
11.	Red Band
12.	Saint Mary's
13.	Tobique
14.	Woodstock

PART VIII*Nova Scotia*

Item	Band
1.	Afton
2.	Annapolis Valley
3.	Bear River
4.	Chapel Island
5.	Membertou
6.	Millbrook
7.	Pictou Landing
8.	Shubenacadie
9.	Wagmatcook
10.	Whycocomagh

SCHEDULE II

(Section 3)

BANDS WHOSE COUNCILLORS ARE ELECTED BY THE ELECTORS AND WHOSE
CHIEF IS ELECTED BY THE COUNCILLORS

PART I

British Columbia

Item	Band
1.	Ahousaht
2.	Fort Nelson
3.	Heiltsuk
4.	Kitasoo
5.	Shuswap

PART II

Alberta

Item	Band
1.	Boyer River

PART III

Quebec

Item	Band
1.	Kahnawake

SCHEDULE III*(Sections 4 and 5)*

BANDS WHOSE CHIEF IS ELECTED BY THE ELECTORS AND WHOSE
COUNCILLORS ARE ELECTED BY THE ELECTORS IN ELECTORAL SECTIONS

PART I*British Columbia*

Column I		Column II	Column III
Item	Band	Number of Electoral Sections	Electoral Section Number and Description
1.	Canoe Creek	2	1. The whole of Dog Creek Reserves Nos. 1, 2, 3 and 4, Copper Johnny Meadow Reserve No. 8, Fish Lake Reserve No. 5, Timmusket Reserve No. 5A and Toby Lake Reserve No. 6. 2. The whole of Canoe Creek Reserves Nos. 1, 2 and 3 and Spilmouse Reserve No. 4.

PART II*Manitoba*

Column I		Column II	Column III
Item	Band	Number of Electoral Sections	Electoral Section Number and Description
1.	[Revoked SOR/ 92-366, s. 7.]	2	
2.	Norway House	2	1. and 2. As set out as sections 1 and 2 on Plan T.1086 of the reserve marked "123/3- 5, Electoral Sections — Norway House Indian Reserve", dated January 7, 1953 and filed with the Department of Indian Affairs and Northern Development.

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Sched. III INDIAN BANDS COUNCIL METHOD OF ELECTION REGULATIONS**PART III***Ontario*

Column I		Column II	Column III
Item	Band	Number of Electoral Sections	Electoral Section Number and Description
1.	Lac Seul	4	1. Settlement of Frenchmans Head 2. Settlement of Kejick Bay 3. Settlement of Whitefish Bay 4. Settlement of Canoe River
2.	Six Nations of the Grand River	6	1. to 6. As set out as No. 1 to No. 6 Districts on a map of the reserve titled "Road Map of the Six Nations Indian Reserve" dated January 8, 1932, and filed with the Department of Indian Affairs and Northern Development.

PART IV*Nova Scotia*

Column I		Column II	Column III
Item	Band	Number of Electoral Sections	Electoral Section Number and Description
1.	Eskasoni	5	1. to 5. As set out as wards 1 to 5 on the map of the reserves entitled "Electoral Sections — Eskasoni Indian Reserves No. 3 & 3A", dated June 17, 1991 and filed with the Band Governance and Indian Estates Directorate of the Department of Indian Affairs and Northern Development on July 5, 1991.

SOR/92-366

INDIAN BANDS REVENUE MONEYS REGULATIONS

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INDIAN BANDS REVENUE MONEYS REGULATIONS

C.R.C. 1978, c. 953, as am. SOR/78-523; SOR/78-773; SOR/78-914; SOR/78-934; SOR/79-428; SOR/80-157; SOR/80-178; SOR/80-896; SOR/80-897; SOR/80-898; SOR/80-899; SOR/81-313; SOR/81-314; SOR/81-692; SOR/82-216; SOR/84-44; SOR/85-360; SOR/86-677; SOR/90-296; SOR/93-244, Pt. IV

Regulations respecting revenue moneys of certain bands of Indians

Short Title

1. These Regulations may be cited as the *Indian Bands Revenue Moneys Regulations*.

Interpretation

2. In these Regulations,

“**account**”. — “account” means the account of a Band established pursuant to section 5;

“**Band**”. — “Band” means

- (a) a band listed in the schedule to the *Indian Band Revenue Moneys Order*, or
- (b) any other band permitted to control, manage or expend its revenue moneys in part pursuant to subsection 69(1) of the *Indian Act*. SOR/93-244, s. 25.

3. [Revoked SOR/93-244, s. 25.]

General

4. Any expenditure by a Band of its revenue moneys shall be subject to the *Indian Act*.

5. Every Band shall establish an account with a chartered bank, a trust or loan company or a credit union or caisse populaire.

6. (1) Every Band shall authorize three persons, two of whom shall be members of the Band, to sign cheques or orders for payment of money drawn on its account.

(2) Every cheque or order for payment of money drawn on the account of a Band shall be signed by at least two of the persons authorized by the Band pursuant to subsection (1).

7. Where the Minister has, pursuant to section 66 of the *Indian Act*, authorized or directed the expenditure of revenue of a Band, the amount of moneys so authorized or elected to be expended shall be paid to the Band’s account out of the Consolidated Revenue Fund.

8. (1) Every Band shall engage an auditor to audit its and to render an annual report in respect thereof.

(2) A copy of the auditor’s annual report shall, within 7 days of its completion,

- (a) be posted in conspicuous places on the Band Reserve for examination by members of the Band; and
- (b) be supplied to the Minister of Indian Affairs and Northern Development.

SCHEDULE

(s. 2)

[Revoked SOR/93-244, s. 27.]

INDIAN ESTATES REGULATIONS

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INDIAN ESTATES REGULATIONS

C.R.C. 1978, c. 954

Regulations respecting Indian estates elections

Short Title

1. These Regulations may be cited as the *Indian Estates Regulations*.

Interpretation

2. In these Regulations

“**Act**”. — “Act” means the *Indian Act*;

“**administrator**”. — “administrator” means a person appointed by the Minister to administer the property of deceased Indians and includes a person who, by reason of his office, is instructed to initiate or conclude the administration of an estate;

“**Minister**”. — “Minister” means the Minister of Indian Affairs and Northern Development;

“**prescribed**”. — “prescribed” means prescribed by the Minister.

Notice of Death

3. (1) As soon as feasible after the death of an Indian, the superintendent shall forward a notice of the death, in the form prescribed, to the Minister.

(2) Except when otherwise ordered by the Minister for the purposes of these Regulations, the presumption of death shall arise and be determined in the manner it arises and is determined where persons other than Indians are concerned.

Inventory

4. (1) When he receives notice of the death of an Indian, or as soon thereafter as possible, the superintendent shall forward an itemized statement of inventory in the form prescribed, to the Minister, showing all the real and personal property of the deceased, the value of each item estimated as closely as possible, as well as all debts of or claims against the estate known at such time, and he shall also state therein whether the deceased left a will and give the names of all persons entitled to share in the estate and all such other information as may be required by the Minister.

(2) For the purposes of this section, the superintendent shall act in the capacity of an administrator and shall take all necessary steps for the proper safekeeping or safeguarding of the assets of the deceased and for the collection of moneys due or owing to the deceased and shall dispose of the moneys so collected or held as the Minister may direct.

(3) Where the deceased had been in receipt of any pension, gratuity or allowance, any cheque or money order received by or on behalf of the deceased that had not been cashed shall

be returned by the superintendent to the sender for re-issue to the order of the Receiver General for credit to the estate concerned.

Probate of Will

5. (1) Where the deceased leaves a will, the superintendent shall cause application for probate in the form prescribed to be completed and signed by the executor, if any is named in the will, unless the superintendent considers him to be incapable by reason of age or other cause to perform the duties of an executor.

(2) Where the executor named in the will refuses to act, the superintendent shall have him record his refusal in writing on the application.

(3) Where the person named in a will is unwilling to act or is considered by the superintendent to be incapable of acting, the superintendent shall complete the application.

Application for Administration

6. The superintendent shall, together with the application under section 5, or with the statement of inventory if there is no will, forward to the Minister an application for administration in the form prescribed.

Affidavits

7. All applications required under these Regulations shall be made under oath except where, by reason of remoteness or otherwise, the Minister provides that the certificate of the applicant in the form prescribed may be accepted in lieu thereof.

Advertising for Creditors, Heirs and Other Claimants

8. (1) When the application for administration has been forwarded to the Minister, the superintendent shall give notice to creditors, heirs and other claimants in the form prescribed that all claims against the deceased or the estate or to any interest therein are required to be filed with him in person or by mail within eight weeks from the date the notice is first posted or given.

(2) The notice referred to in subsection (1) shall be posted in the post office, in the agency office and in all such other meeting places or public places where notices are usually posted or given to the band to which the deceased belonged, and when so ordered by the Minister, may be published in such other manner or place as is deemed expedient.

(3) Any claim that has not been filed within the period prescribed in subsection (1) shall not be received unless the Minister so orders.

(4) Every claim by a creditor shall be accompanied by evidence of the debt in a form satisfactory to the Minister and, unless such evidence accompanies the notice of claim, it may be filed within 15 days of the filing of the notice.

Executors

9. Where an executor or executors have been named in a will and the will has been approved in whole by the Minister, or where an executor has been appointed by the Minister,

the executor shall thereupon be considered the personal representative of the deceased and, where so ordered by the Minister, he shall act under the instructions of the administrator.

Sureties

10. The Minister may, in his discretion, order that an executor or an administrator give sureties as he deems necessary to ensure that the executor or the administrator will carry out his duties in accordance with these Regulations and his instructions.

Powers and Duties of Administrators

11. (1) The Minister may appoint an officer of the Indian and Eskimo Affairs Branch to be the administrator of estates and to supervise the administration of estates and of all the assets of deceased Indians, and may provide that for the purposes of closing an estate the administration thereof be transferred to the superintendent of the reserve to which the deceased belonged.

(2) The administrator appointed pursuant to this section or the person acting as administrator in accordance with section 4 shall be responsible to the Minister for the proper preparation of the inventory, the giving of all notices and the carrying out of all inquiries and duties that may be necessary or be ordered with respect to any matter referred to in these Regulations.

(3) Where a claim is made against an estate, the administrator may provide for payment thereof out of the assets of the estate when it appears that it is well founded; where in the opinion of the administrator the claim is doubtful or is not of the nature of a cause or matter testamentary, he shall refer it to the Minister for decision.

(4) An administrator may pay all debts owing by the estate and shall obtain receipts therefor or releases, as the case may be, and where the debt is in the nature of a loan, he may pay the balance owing or, with the consent of the heirs, transfer ownership of the security given for the loan or, with the consent of the band or of the Minister, as the case may be, sell the property upon which a lien exists to guarantee payment of the loan; he may also sell any asset real or personal for the purpose of paying debts owing by the estate, under such conditions as may be prescribed.

(5) No proceedings to establish or enforce a claim against an estate shall be valid unless the administrator is made a party thereto.

(6) The administrator may cause partial distribution to be made from the net assets of the estate to ensure the expedient administration thereof.

(7) Where a partial distribution cannot be made, or where the heirs cannot agree as to distribution, the administrator may, with the approval of the Minister, convert the net assets into cash and pay those assets to the Receiver General to be credited to the estate pending final distribution to the persons entitled thereto.

(8) Where the deceased had a deposit with a bank or other financial institution, or where such institution holds bonds or certificates on behalf of the deceased, the administrator may require the financial institution to transfer the moneys to the Receiver General for credit to the estate and to turn over to him the bonds or certificates so that he may sell them and deposit the proceeds to the credit of the estate or dispose of them in such other manner as may be prescribed.

(9) When moneys are payable to the estate of an Indian under a life insurance policy, the

administrator may direct that the amount payable under the policy be paid to the Receiver General for credit to the estate.

(10) The administrator shall obtain or cause to be obtained all certificates or releases that may be required under federal or provincial statutes with respect to an estate or a succession.

(11) An administrator is empowered to do all that an executor is empowered to do where the executor refuses to act or is incapable of acting by reason of absence or sickness or for any other reason.

(12) Any bank or other financial institution or any person who makes a payment or delivers a bond or certificate under these Regulations is indemnified against any liability that may arise by reason thereof.

(13) An administrator may, if he thinks fit, and shall, if required by the Minister, lease or renew any lease of land held by the deceased and may cause to be fulfilled any contract entered into by the deceased.

(14) An administrator shall have all such powers as are required for the carrying out of the duties herein specified, and shall carry out any order or direction and abide by any finding made or given by the Minister with respect to any matter and cause testamentary.

(15) An administrator shall be accountable to the Minister for his administration.

(16) Compliance with these Regulations with respect to administration of estates shall discharge the administrator or other person complying therewith from all liability by reason of any of the assets in his hands having been paid, transmitted, remitted or otherwise dealt with in accordance therewith.

Transfer of Possession

12. (1) Where the deceased Indian had been in peaceable, public and useful possession of land on a reserve for a continuous and uninterrupted period of 30 years, transfer of possession may, at the discretion of the Minister, be presumed to have taken place and in such event the onus of proving that prescription did not run or of disproving the transfer shall be upon any person claiming adverse possession.

(2) For the purposes of this section, in calculating the 30-year period, the period of possession of the deceased, his predecessors in title and that of his heirs, may be cumulated.

Absent or Missing Heirs

13. Where heirs are found upon due inquiry to be absent or missing and notices or advertisements have been given or published in accordance with these Regulations, the moneys or assets in an estate to which they might be entitled shall be held in a special account, without interest, and unless evidence of death satisfactory to the Minister is filed or obtained, shall be held for a period of seven years after which the absent or missing heirs who have not reported by such time shall be presumed to be dead and the moneys or assets distributed accordingly to the remaining heirs or persons entitled thereto.

Woman Deemed to be a Widow

14. The Minister may direct that a woman shall be deemed to be the widow of a deceased Indian and, if there are children issue of the said woman and of the deceased Indian, that they shall be deemed to be their children, for the purposes of these Regulations,

(a) where it is established to the satisfaction of the Minister that the woman had for a period of not less than seven years immediately prior to the death of the deceased Indian with whom she had been residing and whom by law she was prevented from marrying by reason of a previous marriage either of the deceased or of herself to another person, or to whom she was married in a form not recognized by law, but maintained and publicly represented by the deceased Indian as his wife; or

(b) where there had been no prior marriage of the deceased Indian or of herself to another person, the woman establishes that she had, for a number of years immediately prior to the death of the deceased Indian with whom she had been residing, been maintained and publicly represented by the deceased Indian as his wife, whether or not there had been children of the relationship.

Will

15. Any written instrument signed by an Indian may be accepted as a will by the Minister whether or not it conforms with the requirements of the laws of general application in force in any province at the time of the death of the Indian.

Other Forms

16. The Minister may prescribe further and other notices and forms as he deems necessary for the purposes of section 42 of the Act and these Regulations.

INDIAN MINING REGULATIONS

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INDIAN MINING REGULATIONS

C.R.C. 1978, c. 956, as am.
SOR/90-468

Regulations providing for the disposition of surrendered minerals underlying lands in Indian reserves

Short Title

1. These Regulations may be cited as the *Indian Mining Regulations*.

Interpretation

2. (1) In these Regulations,

“**Act**”. — “Act” means the *Indian Act*; (*Loi*)

“**assessment work**”. — “assessment work” means work performed that in the opinion of the Supervisor was performed for the purpose of discovering and developing minerals in a permit area or lease area and includes

- (a) geological, geophysical, geochemical and similar surveys,
- (b) core drilling, churn drilling and any other drilling method when used to provide geological information,
- (c) removing overburden,
- (d) drifting, crosscutting, shaft sinking, raising and similar underground work,
- (e) road building, and
- (f) any other type of work approved by the Supervisor; (*travaux statutaires*)

“**Department**”. — “Department” means the Department of Indian Affairs and Northern Development; (*ministère*)

“**Division Chief**”. — “Division Chief” means the Chief, Oil and Mineral Division of the Development Branch of the Department or any person authorized by him; (*chef de la Division*)

“**lease**”. — “lease” means a lease issued pursuant to section 5, 6 or 19 granting the right to explore for, develop and produce minerals within the lease area; (*bail*)

“**lease area**”. — “lease area” means the tract of land or location described in a lease; (*étendue visée par un bail*)

“**lessee**”. — “lessee” means a person who holds a lease; (*preneur*)

“**minerals**”. — “minerals” means naturally occurring metallic and non-metallic minerals and rock containing such minerals, but does not include petroleum, natural gas and other petroliferous minerals or any unconsolidated minerals such as placer deposits, gravel, sand, clay, earth, ash, marl and peat; (*minéraux*)

“**Minister**”. — “Minister” means the Minister of Indian Affairs and Northern Development; (*Ministre*)

“**permit**”. — “permit” means a permit issued under section 5 or 6 granting the right to explore for and develop minerals within the permit area; (*permis*)

“**permit area**”. — “permit area” means the tract of land or location described in a permit; (*étendue visée par un permis*)

“**permittee**”. — “permittee” means a person who holds a permit; (*détenteur de permis*)

“**person**”. — “person” means a person who has attained the age of 21 years or a corporation registered or licensed in Canada or in any province thereof; (*personne*)

“**Supervisor**”. — “Supervisor” means the Supervisor of Indian Minerals for the Oil and Mineral Division of the Development Branch of the Department, or any person authorized by him; (*Surveillant*)

“**treatment**”. — “treatment” means concentrating, smelting, refining or any similar process but does not include washing, screening, conveying, loading or other handling methods when they are not combined with treatment. (*traitement*)

(2) For the purposes of these Regulations, “section” and “legal subdivision” have the same meanings as in Part II of the *Canada Lands Surveys Act*.

Application

3. These Regulations apply with respect to surrendered mines and minerals underlying lands in a reserve, but do not apply with respect to surrendered mines and minerals underlying lands in a reserve that is situated in the Province of British Columbia

Compliance with Provincial Laws

4. Every permittee and every lessee shall comply with the laws of the province in which his permit area or lease area is situated where such laws relate to exploration for, or development, production, treatment and marketing of minerals and do not conflict with these Regulations.

Disposition of Mineral Rights

5. (1) The Division Chief may, by public advertisement or in such other manner as he considers advisable, invite tenders for mineral rights on such terms and conditions as he deems proper.

(2) Where tenders have been submitted in compliance with the terms and conditions set forth by the Division Chief, the Division Chief may issue a permit or lease to the person submitting the highest tender or may reject all tenders.

6. (1) Notwithstanding section 5, the Division Chief may, with the consent of the council of the band for whose use and benefit lands have been set apart and subject to such terms and conditions as the council of the band may approve, issue a permit or lease with respect to minerals underlying such lands to any person upon application therefor.

(2) Every application for a permit or lease shall be accompanied by the fee therefor set out in the schedule payable to the Receiver General.

PERMITS

Term of Permit

7. (1) Subject to subsection (2), every permit expires one year from the date upon which it was issued.

(2) Where before the expiration of his permit a permittee makes an application in a form satisfactory to the Supervisor for extension thereof, the Supervisor, upon being satisfied that the permittee has complied with these Regulations, and with the terms and conditions of his permit, shall extend that permit for a period of one year or for such shorter period of time as the permittee may request.

(3) Every application for extension of a permit shall contain

- (a) a summary of the work that has been done under the permit and the most recent extension thereof; and
- (b) a summary of the work that the permittee proposes to do if the permit is extended.

8. A permittee shall not be entitled to more than three extensions of his permit unless

- (a) the invitation to tender under section 5 or the permit issued under section 6 states that more than three extensions may be granted; or
- (b) in the opinion of the Supervisor, the extension of the permit is required to complete exploration work in the permit area and assessment work has been performed satisfactorily.

9. Where, within 30 days after the date upon which a permit expires, the holder of the expired permit makes an application to the Supervisor for reinstatement and extension of that permit, the Division Chief may at the request of the Supervisor reinstate and extend that permit for a period not exceeding one year from the date upon which it expired.

Rental

10. (1) A permittee shall pay, unless otherwise provided in the invitation to tender under section 5 or in the permit issued under section 6, the rent for the initial term of his permit or an extension thereof, as the case may be, in advance to the Receiver General and such rent shall be payable at the rate of

- (a) \$0.25 for each acre in the permit area in respect of the initial term of his permit;
- (b) \$0.04 per month for each acre in the permit area in respect of each of the first, second and third extensions of his permit; and
- (c) \$0.08 per month for each acre in the permit area in respect of any further extension.

(2) Where a permittee is issued a lease pursuant to section 19, the Division Chief shall direct the return to the permittee of any rent paid pursuant to subsection (1) that applies to the unexpired term of the permit or extension thereof, as the case may be, that was issued for the area taken under the lease.

Security Deposit

11. (1) No permit shall be issued to any person unless that person has deposited with the Division Chief a security deposit in such amount or at such rate, if any, as may be specified in the invitation to tender under section 5 or in the permit to be issued under section 6.

(2) A security deposit shall be in the form of money, bonds or promissory notes payable to the Receiver General on demand at a chartered bank or in such other form as the Division Chief deems proper.

12. Where a permit expires or is surrendered, the Division Chief, upon being satisfied that the permittee has complied with these Regulations and with the terms and conditions of his permit, shall direct that any security deposit deposited pursuant to subsection 11(1) be returned to the permittee.

Assessment Work

13. (1) During the initial term of his permit or during any extension thereof, as the case may be, every permittee shall perform assessment work acceptable to the Supervisor, of the value of

- (a) \$0.50 for each acre in the permit area during the initial term of his permit, and
- (b) \$1 for each acre in the permit area during the term of each extension of his permit,

or of such other value as may be specified in the invitation to tender under section 5 or in the permit issued under section 6.

(2) Where, in his opinion, assessment work performed near a permit area serves to evaluate the mineral potential of the permit area, the Supervisor may deem the whole or any part of the value of that work to be assessment work performed in the permit area.

14. (1) Where assessment work of the value required under subsection 13(1) is not performed, the permittee shall make a cash payment to the Receiver General in an amount equal to the difference between the value of assessment work performed and the value of assessment work required to be performed.

(2) Where the value of assessment work performed during the term of a permit or an extension thereof exceeds the value of assessment work required to be performed pursuant to subsection 13(1), the Supervisor may credit the excess value of the assessment work performed to the value of the assessment work required to be performed

- (a) pursuant to subsection 13(1) during any extension or further extension of the permit; or
- (b) pursuant to any lease or leases that the permittee may acquire with respect to all or any part of his permit area.

15. (1) Every permittee shall, within 90 days following the expiry of his permit and following any extension thereof, forward to the Supervisor a certified statement in duplicate itemizing the assessment work performed and the cost of performing such work during the term of his permit and any extension thereof together with any cash payment that may be required pursuant to subsection 14(1).

(2) Every permittee shall, within six months following the expiry of his permit and

following any extension thereof, forward to the Supervisor copies in duplicate of all maps and technical information that serve to record the assessment work performed for the term of his permit and any extension thereof together with a report of the results obtained from the performance of that assessment work.

(3) Where the Supervisor is not satisfied with the statements, maps or technical information submitted under subsection (1) or (2), he may require the permittee to submit additional information.

Test Shipments

16. (1) Subject to subsection (2), no permittee shall produce minerals from his permit area.

(2) A permittee may, with the written consent of the Supervisor and subject to such terms and conditions as the Supervisor may prescribe in writing, produce and ship reasonable amounts of minerals for testing purposes only.

LEASES

Selection

17. Where a permittee, during the term of his permit or any extension thereof, desires to obtain a lease in respect of his permit area or any part thereof, he shall make an application in duplicate therefor to the Supervisor.

18. (1) An application for a lease referred to in section 17

- (a) shall be in a form satisfactory to the Division Chief;
- (b) shall contain a legal description in accordance with subsection (2) or (3) of the lands in respect of which a lease is desired; and
- (c) shall be accompanied by
 - (i) the fee therefor set out in the schedule payable to the Receiver General, and
 - (ii) the rental for the first year of the lease in accordance with section 24.

(2) Subject to subsection (3), lands referred to in subsection (1) shall be described by

- (a) section, legal subdivision, lot or aliquot part of a lot if such lands lie within a subdivision area; or
- (b) projected section, legal subdivision, lot or aliquot part of a lot if such lands do not lie within a subdivided area.

(3) Where the boundaries of a permit area or part thereof in respect of which a lease is desired do not correspond with a township survey or other legal survey or any projection thereof, the Division Chief may allow the land therein to be described by means of irregular boundaries.

19. Where a permittee has made an application for a lease in accordance with sections 17 and 18 and has complied with these Regulations and with the terms and conditions of his permit, the Division Chief shall issue a lease to him.

Entitlement

20. Every lessee who has complied with the provisions of these Regulations is entitled to all minerals found within his lease area, subject to any condition of his permit or lease acquired under section 5 or 6.

Surveys

21. Where, in the opinion of the Division Chief, it is necessary that lands in respect of which a lease is desired be surveyed for the purpose of issuing a lease pursuant to section 19, the Division Chief may require the applicant for the lease to have the boundaries of such lands surveyed by a commissioned land surveyor acting under instructions from the Surveyor General of Canada.

22. (1) Where a lease area is not surveyed before the issuance of a lease, but is subsequently surveyed by a land surveyor acting under the instructions of the Surveyor General of Canada, the Division Chief may amend the description in the lease to conform to the description supplied by the Surveyor General of Canada.

(2) Where the description in a lease is amended under subsection (1), the Division Chief shall forward to the lessee, by registered mail, a copy of the amended description.

(3) The description of lands in a lease referred to in subsection (1) shall be deemed to have been amended on the 30th day after a copy of the amended description was forwarded to the lessee by registered mail.

Term of Lease

23. (1) Subject to subsection (2), every lease expires 10 years from the date upon which it was issued unless otherwise provided in the invitation to tender under section 5 or in the lease issued under section 6 or pursuant to section 19.

(2) Where, before the expiration of a lease or a renewal thereof, a lessee applies to the Division Chief for a renewal or further renewal of the lease, and where the lessee has complied with these Regulations and with the terms and conditions of the lease or renewal thereof, the Division Chief shall issue the renewal or further renewal of the lease

(a) for such renewal term as may be specified in the lease or, if no renewal term is specified in the lease, for a term of 10 years; or

(b) for such shorter term than that specified in paragraph

(c) as the lessee may request.

(3) For the purposes of subsection (2), the Division Chief may allow a lessee to group two or more of his leases within any one reserve.

(4) [Revoked SOR/90-468, s. 1(2).]

(5) Every application for renewal of a lease shall be accompanied by the fee therefor set out in the schedule payable to the Receiver General. SOR/90-468, s. 1.

Rental

24. A lessee shall pay annual rental in advance to the Receiver General at the rate of \$2 for each acre in the lease area or at such other rate as may be specified in the invitation to tender under section 5 or in the lease issued under section 6 or pursuant to section 19.

Security Deposit

25. (1) No lease shall be issued to any person unless that person has deposited with the Division Chief a security deposit in such amount or at such rate, if any, as may be specified in the invitation to tender under section 5 or in the lease to be issued under section 6 or pursuant to section 19.

(2) A security deposit shall be in the form of money, bonds or promissory notes payable to the Receiver General on demand at a chartered bank or in such other form as the Division Chief deems proper.

26. Where the Division Chief is satisfied that a lessee has complied with these Regulations and with the terms and conditions of his lease or any renewal thereof, he may, during the term of the lease, and shall, on the expiry or surrender thereof, direct that the security deposit or a portion thereof deposited pursuant to subsection 25(1) be returned to the lessee.

Assessment Work

27. (1) During each year of the term of his lease and any renewal thereof, every lessee shall perform assessment work acceptable to the Supervisor of the value of \$2 for each acre in the lease area, or of such other value as may be specified in the invitation to tender under section 5 or in the lease issued under section 6 or pursuant to section 19.

(2) Where in his opinion assessment work performed near a lease area serves to evaluate the mineral potential of the lease area, the Supervisor may deem the whole or any part of the value of that work to be assessment work performed in the lease area.

28. (1) Where, during any year of a lease, assessment work of the value required under subsection 27(1) is not performed, the lessee shall make a cash payment to the Receiver General in an amount equal to the difference between the value of assessment work performed during that year and the value of the assessment work required to be performed.

(2) Where the value of assessment work performed during any year of a lease exceeds the value of assessment work required to be performed under subsection 27(1), the Supervisor may credit the excess value of the assessment work performed to the value of the assessment work required to be performed pursuant to subsection 27(1) in any succeeding year or years up to 10 years from the year in which the assessment work was performed.

29. (1) Every lessee shall, within 90 days following the completion of each year of the term of his lease or any renewal thereof, forward to the Supervisor a certified statement in duplicate itemizing the assessment work performed and the cost of performing such work during the year most recently completed, together with any cash payment that may be required pursuant to subsection 28(1).

(2) Every lessee shall, within six months following the completion of each year of the

term of his lease or any renewal thereof, forward to the Supervisor copies in duplicate of all maps and technical information that serve to record the assessment work performed for the year most recently completed, together with a report of the results obtained from the performance of that assessment work.

30. [Revoked SOR/90-468, s. 2.]

Royalties

31. Unless otherwise specified in the invitation to tender under section 5 or in the lease issued pursuant to section 6 or 19, every lessee shall pay royalties on all minerals to which he is entitled that have been obtained from his lease area at the rate of five per cent of

- (a) the gross revenue from the mineral output at the pithead, where the minerals are sold at the lease area before treatment; or
- (b) the market value of the mineral output at the pithead, where the minerals are not sold at the lease area before treatment.

32. Notwithstanding section 31, the rate of royalty may be altered by agreement between the Division Chief and the lessee from a rate based on a percentage of the gross revenue or of the market value to the equivalent rate per ton or per cubic yard of the mineral output at the pithead.

33. Any royalty rate based upon a weight or measure of mineral output shall be adjusted annually to conform to changes in a price index or other index that is published by Statistics Canada and is chosen by the Division Chief.

34. (1) During the term of his lease and any renewal thereof, a lessee shall forward to the Supervisor within 30 days after the expiry of each period of production a royalty payment in favour of the Receiver General in respect of that period together with a statement in duplicate showing the production and sales figures upon which the payment has been calculated.

(2) Where the Supervisor is not satisfied with the amount of a royalty payment or with a statement forwarded by a lessee pursuant to subsection (1), he may require the lessee to submit further particulars in relation to the statement and, if then required by the Supervisor, the lessee shall adjust the amount of the royalty payment.

(3) A period of production consists of the three calendar months ending on the last day of March, June, September and December or of such other period of time as the Supervisor may determine.

Notice of Production

35. Every lessee, within 10 days from the commencement of production of any mineral from his lease area, shall

- (a) notify the Supervisor of the commencement of production; and
- (b) submit to the Supervisor such information with respect to his mining operations and production as the Supervisor may require.

Penalty and Cancellation

36. (1) Where a lessee fails to pay rental as required by section 24 or to surrender his lease within 30 days from the date on which the rental becomes payable, he is liable to a penalty of five per cent of the amount of his rental.

(2) Notwithstanding subsection (1), where in the opinion of the Division Chief a lessee has failed in respect of his lease to comply with any provision of these Regulations, the Division Chief may forward to the lessee written notice by registered mail advising him that unless he commences to remedy the failure within 30 days from the date of the mailing of the notice and continues diligently to remedy the failure his lease may be cancelled by the Minister.

(3) Where a lessee has received a notice pursuant to subsection (2), he may, within 30 days from the date of the mailing of the notice, make written application to the Minister for a hearing to consider reasons why his lease should not be cancelled.

(4) Upon receipt of an application made pursuant to subsection (3), the Minister shall appoint a time and place for a hearing and shall notify the lessee by registered mail of the time and place of the hearing not less than 10 days before the date thereof.

(5) Where, in the opinion of the Minister, a lessee has failed to comply with the requirements of a notice mailed to him pursuant to subsection (2), or at a hearing held pursuant to this section does not show adequate reason why his lease should not be cancelled, the Minister shall cancel his lease.

GENERAL*Grouping*

37. The Division Chief may authorize the grouping of

(a) a permit area or a lease area within a reserve with other permit areas or lease areas within the same reserve for the purpose of

- (i) providing a security deposit required under section 11 or 25, and
- (ii) assessment work required to be performed under sections 13 and 27; and

(b) a lease area within a reserve with other lease areas within the same reserve for the purpose of qualifying for a renewal under subsection 23(2) or (3).

38. The Minister may authorize the grouping of a permit area or a lease area in a reserve with a permit area or lease area in another reserve or with a tract of land outside a reserve for the purpose of development or production of minerals under these Regulations, where councils of the bands for whose use and benefit the lands have been set apart in which the permit areas or lease areas are located, have approved a formula for determining the participation of the bands in revenues and other benefits derived from such development or production of minerals.

Assignment

39. (1) A permittee or lessee may assign his permit or lease or any interest therein with the approval of the Minister.

(2) Where an assignment of a permit or lease

- (a) has been approved by the Minister,
- (b) is unconditional, and
- (c) is accompanied by the registration fee set out in the schedule payable to the Receiver General,

the assignment shall be registered in the register kept pursuant to section 55 of the Act.

Surrender

40. (1) Where a permittee or lessee has complied with these Regulations and with the terms and conditions of his permit or lease, he may at any time surrender all or part of his permit area or lease area.

(2) Subject to subsection 10(2), where a permit or lease is surrendered under subsection (1), no rental paid in relation to that permit or lease shall be returned to the permittee or lessee.

Use of Land Surface

41. Where a person requires entry to a reserve in respect of which minerals have been surrendered or where a permittee or lessee requires use of land surface in a reserve for the purpose of development or production of minerals, he shall obtain a right of entry or right to use the land in accordance with any provisions that may be made by the Minister under the Act.

Inspection

42. (1) The Supervisor may

- (a) enter upon and inspect any permit area, lease area or buildings and equipment thereon;
- (b) require a permittee or lessee to produce any technical, financial and other records relating to the exploration for or production of minerals from his permit area or lease area; and
- (c) take samples of minerals being produced and carry out any examination that, in his opinion, is necessary.

(2) Every permittee or lessee shall render such assistance as the Supervisor may require in the performance of his duties.

Plans

43. (1) Upon the termination of his permit or extension thereof or of his lease or renewal thereof and at such other times as the Supervisor may request, a permittee or lessee, as the case may be, shall submit to the Supervisor plans and sections that show

- (a) the location of all mine workings;
- (b) the average valuable mineral content of all mine headings, backs and faces not currently being worked; and
- (c) the surface and underground plant, roads, railways, buildings and other structures or works situated in the permit area or lease area.

(2) All plans and sections submitted pursuant to subsection (1) shall be submitted in

duplicate and shall be drawn on a scale of one inch to 100 feet or on such other scale as the Supervisor may determine.

(3) Where plans and sections submitted pursuant to subsection (1) are not satisfactory to the Supervisor, the Supervisor may require the permittee or lessee to submit further plans and sections.

Information Confidential

44. Any technical information submitted by a permittee or lessee pursuant to these Regulations shall not, without the written consent of the permittee or lessee, be disclosed unless that information

(a) relates only to a permit area or a portion thereof in respect of which the permit has expired or has been surrendered; or

(b) relates only to a lease area or a portion thereof in respect of which the lease has expired or has been surrendered or cancelled.

Payment of Tax

45. Every permittee and every lessee shall pay all rates, assessments and taxes in respect of his permit area or lease area, and in respect of his operations under his permit or lease.

Appeals

46. (1) Every permittee and every lessee may appeal to the Minister from any decision of the Division Chief or Supervisor, other than a decision made under section 5, 6 or 19.

(2) Where an appeal is made under subsection (1), the Minister may make such order or declaration as he deems proper.

SCHEDULE

(ss. 18, 23 and 39)

FEEs

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INDIAN REFERENDUM REGULATIONS

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INDIAN REFERENDUM REGULATIONS

C.R.C. 1978, c. 957

Regulations governing the holding of referendums on Indian reserves

Short Title

1. These Regulations may be cited as the *Indian Referendum Regulations*.

Interpretation

2. In these Regulations,

“**Act**”. — “Act” means the *Indian Act*;

“**Assistant Deputy Minister**”. — “Assistant Deputy Minister” means the Assistant Deputy Minister, Indian and Eskimo Affairs of the Department of Indian Affairs and Northern Development;

“**deputy electoral officer**”. — “deputy electoral officer” means a person appointed by an electoral officer for the purposes of a referendum;

“**electoral officer**”. — “electoral officer” means the field officer of the Indian Affairs Branch in charge of an agency or any officer of the Indian Affairs Branch acting under the directions of the Minister or Assistant Deputy Minister for the purposes of a referendum;

“**Minister**”. — “Minister” means the Minister of Indian Affairs and Northern Development;

“**prescribed**”. — “prescribed” means prescribed by the Minister;

“**proclamation**”. — “proclamation” means a proclamation issued by the Governor in Council pursuant to subsection 98(1) of the Act;

“**surrender**”. — “surrender” means a surrender of reserve lands or any part thereof to Her Majesty.

Holding of Referendum

3. (1) The Minister may, at the request of the council of a band or whenever he considers it advisable, order a referendum to be held to determine if

- (a) the majority of the electors of a band are in favour of a surrender; or
- (b) the majority of the electors who vote thereat are in favour of the issuance of a proclamation.

- (2) Subject to subsection (3), the voting on a referendum held pursuant to these Regulations shall be by secret ballot.

- (3) Where a referendum is ordered to determine whether the majority of the electors of a band are in favour of a surrender, the Minister may, at the request of the council of the band or

whenever he considers it advisable, order that the voting on the referendum be by a show of hands or in some other manner as the council of the band may approve.

Voting by Secret Ballot

4. (1) Where a voting on a referendum is to be by secret ballot, the electoral officer shall post a notice in the form prescribed at least 30 days prior to the date of the voting, in such places as he deems necessary.

(2) The notice referred to in subsection (1) shall state

- (a) the date on which the voting shall take place;
- (b) the question to be submitted to the electors;
- (c) the hours of the day the electors may vote; and
- (d) the location of the polling booths.

5. (1) The electoral officer shall

- (a) prepare a list containing in alphabetical order the names of the electors entitled to vote on the referendum and designating the location of the polling booth where each elector shall be entitled to vote;
- (b) post a copy of the list of electors in such places as he deems necessary at least 15 days prior to the date of the voting;
- (c) prepare sufficient ballot papers in the prescribed form which shall state the questions to be submitted to the electors;
- (d) procure a sufficient number of ballot boxes; and
- (e) before the poll is open cause to be delivered to the deputy electoral officer the ballot papers and a sufficient number of lead pencils for marking the ballot papers.

(2) Any elector may apply to the electoral officer within 10 days of the posting of the list of electors to have the list revised on the grounds that

- (a) the name of an elector has been omitted therefrom;
- (b) the name of an elector is incorrectly set out therein; or
- (c) the name of a person not qualified to vote is included therein.

(3) Where the electoral officer is satisfied that a revision is necessary in the list of electors, he shall make the revision and such revision shall be final.

6. The electoral officer or the deputy electoral officer shall provide a compartment at each polling place where the elector can mark his ballot paper free from observation.

7. The electoral officer or the deputy electoral officer shall, immediately before the opening of the poll, open the ballot box and call upon such persons who may be present to witness that it is empty and shall then lock and properly seal the box and place it in view for the reception of the ballots.

8. (1) Subject to subsection (2), the polls shall be kept open from 9 o'clock in the forenoon until 6 o'clock in the afternoon of the day set for the voting on the referendum.

(2) Where it appears to the electoral officer that it would be inconvenient to the electors to have the poll closed at 6 o'clock, he may order that it be kept open for an additional period of time not exceeding 2 hours.

9. (1) The electoral officer or the deputy electoral officer after satisfying himself that a person presenting himself for the purpose of voting is entitled to vote at the polling place, shall provide such person with a ballot paper on the back of which the officer has affixed his initials, so placed, that when the ballot paper is folded the initials can be seen without unfolding the ballot paper.

(2) The electoral officer or the deputy electoral officer shall place on the list of electors a mark opposite the name of every elector receiving a ballot paper.

10. (1) The electoral officer or the deputy electoral officer shall explain the mode of voting to an elector when requested to do so by such elector.

(2) On the application of an elector who is

- (a) not able to read, or
- (b) incapacitated by blindness or other physical cause,

the electoral officer or the deputy electoral officer shall assist that elector by marking his ballot paper in the manner directed by the elector and shall place such ballot paper in the ballot box.

(3) The electoral officer or the deputy electoral officer shall make an entry in the list of electors opposite the name of the elector that the ballot was marked by him at the request of the elector and the reason therefor.

11. Except as provided in subsection 10(2), every elector receiving a ballot paper shall

- (a) proceed immediately to the compartment provided for marking the ballot paper;
- (b) mark his ballot by placing a cross ("X") under the word "YES" or "NO" opposite the question stated on the ballot paper;
- (c) fold the ballot paper so as to conceal the mark on the face of the paper but so as to expose the initials on the back of it; and
- (d) forthwith deliver it to the electoral officer or the deputy electoral officer for deposit in the ballot box.

12. (1) An elector who receives a soiled or improperly printed ballot paper, or inadvertently spoils his ballot paper in marking it shall, upon returning the ballot paper to the electoral officer or the deputy electoral officer, be entitled to another ballot paper.

(2) An elector who has received a ballot paper and

- (a) leaves the compartment for marking ballot papers without delivering the same to the electoral officer or the deputy electoral officer in the manner provided, or
- (b) refuses to vote,

shall forfeit his right to vote on the referendum and the electoral officer or the deputy electoral officer shall make an entry on the list of electors opposite the name of the elector that the elector did not return the ballot paper or refused to vote as the case may be.

13. The electoral officer or the deputy electoral officer shall allow only one elector in the compartment for marking ballot papers at any one time.

14. An elector who is inside the polling place at the time fixed for closing the poll shall be entitled to vote before the poll is closed.

15. No person shall interfere or attempt to interfere with an elector when marking his

ballot paper or obtain or attempt to obtain at the polling place information as to how an elector is about to vote or has voted.

16. The electoral officer or the deputy electoral officer shall maintain peace and good order during the voting and for this purpose he may enlist the assistance of the constables, peace officers or other persons present.

17. Whenever the electoral officer or the deputy electoral officer does not understand the language spoken by the elector, he shall appoint and swear an interpreter who shall be the means of communication between him and the elector with reference to all matters required to enable such elector to vote.

18. (1) Immediately after the close of the poll the electoral officer in the presence of the deputy electoral officer and any members of the council of the band that may be present shall

- (a) examine the ballot papers;
 - (b) reject all ballot papers
 - (i) that have not been supplied by him or by the deputy electoral officer,
 - (ii) that have been marked incorrectly, or
 - (iii) upon which anything appears by which an elector can be identified;
 - (c) count the votes given in favour of and against the question submitted in the referendum; and
 - (d) prepare a statement in writing of the number of votes so given and of the number of ballot papers rejected.
- (2) The statement referred to in paragraph (1)(d) shall be
- (a) signed by the electoral officer and by the chief or a member of the council of the band; and
 - (b) filed in the Indian agency office.

19. When the results of the voting at all the polls are known to the electoral officer, he shall

- (a) immediately prepare a statement in triplicate signed by himself and by the chief or a member of the council of the band indicating
 - (i) the number of electors who were entitled to vote,
 - (ii) the number of electors who voted,
 - (iii) the number of votes cast in favour of and against the question submitted in the referendum, and
 - (iv) the number of rejected ballots; and
- (b) deliver a copy of the statement to
 - (i) the Assistant Deputy Minister,
 - (ii) the regional supervisor or the Indian commissioner for the Province of British Columbia, as the case may be, and
 - (iii) the chief of the band.

20. The electoral officer shall deposit the ballot papers used in the voting in a sealed envelope and retain it for 60 days after which time he may, unless directed otherwise by the Assistant Deputy Minister, destroy them in the presence of two witnesses.

Voting Other Than by Secret Ballot

21. (1) Where voting on a referendum is to be by a show of hands or in some other manner as ordered by the Minister and approved by the council of the band, the electoral officer shall post a notice in the form prescribed at least 30 days prior to the date of the voting, in such places as he deems necessary.

(2) The notice referred to in subsection (1) shall state

(a) the date, time and place of the meeting where voting on the referendum shall take place; and

(b) the question to be submitted to the electors.

22. The electoral officer shall

(a) prepare a list of electors containing in alphabetical order the names of the electors entitled to vote on the referendum and designating the meeting place where each elector shall be entitled to attend for the purposes of voting; and

(b) post a copy of the list of electors in such places as he deems necessary at least 15 days prior to the date of the voting.

23. (1) An elector may apply to the electoral officer within 10 days from the posting of the list of electors to have such list revised on the grounds that

(a) the name of an elector has been omitted therefrom;

(b) the name of an elector is incorrectly set out therein; or

(c) the name of a person not qualified to vote is included therein.

(2) Where the electoral officer is satisfied that a revision is necessary in the list of electors, he shall make the revision and such revision shall be final.

24. The electoral officer or the deputy electoral officer shall maintain peace and good order during the voting and for this purpose he may enlist the assistance of constables, peace officers or other persons present.

25. Whenever the electoral officer or the deputy electoral officer does not understand the language spoken by an elector, he shall appoint and swear an interpreter who shall be the means of communication between him and the elector with reference to all matters required to enable such elector to vote.

26. The electoral officer or the deputy electoral officer shall call the meeting to order and, after explaining to the electors the purpose of the meeting and the terms of the surrender, shall call for a vote of the electors by a show of hands or in the manner ordered by the Minister and approved by the council of the band.

27. No person shall cause or attempt to cause any disturbance at a meeting or interfere or attempt to interfere with the counting of the votes.

28. (1) The electoral officer or the deputy electoral officer shall

(a) count the votes at the meeting given in favour of and against the surrender; and
(b) prepare a statement in writing of the number of votes so given.

(2) The statement referred to in subsection (1) shall be

- (a) signed by the electoral officer or the deputy electoral officer and by the chief or a member of the council of the band; and
- (b) filed in the Indian agency office.

29. When the results of the voting at all the meetings are known to the electoral officer, he shall

(a) immediately prepare a statement in triplicate signed by himself and by the chief or a member of the council of the band indicating

- (i) the number of electors who were entitled to vote,
- (ii) the number of electors who voted, and
- (iii) the number of votes cast in favour of and against the surrender; and

(b) deliver a copy of the statement to

- (i) the Assistant Deputy Minister,
- (ii) the regional supervisor or the Indian commissioner for the Province of British Columbia, as the case may be, and
- (iii) the chief of the band.

Subsequent Referendums

30. (1) Where the majority of the electors of a band did not vote on a referendum held to determine if the band is in favour of a surrender, the Minister may, if the surrender was assented to by the majority of the electors who did vote, call another referendum to be held in accordance with these Regulations.

(2) Where, on a referendum held to determine if a band is in favour of a proclamation, the majority of electors thereat reject the proclamation, another such referendum shall not be held until at least two years have elapsed from the date of the previous referendum unless the Minister otherwise directs.

Appeals

31. (1) Where a referendum is held pursuant to these Regulations, any elector who voted on the referendum and has reasonable grounds for believing that

- (a) there was a violation of these Regulations that may affect the results of the referendum, or
- (b) there was corrupt practice in connection with the referendum,

may, within 7 days from the date of the referendum, file an appeal by forwarding by registered mail to the Assistant Deputy Minister

- (c) notice of an appeal; and
- (d) a statutory declaration containing the grounds of appeal and particulars thereof.

(2) Where an appeal is filed pursuant to subsection (1), the Assistant Deputy Minister shall within 21 days from the receipt thereof forward a copy of the appeal by registered mail to the electoral officer.

(3) The electoral officer shall, within 10 days from the receipt of the appeal, forward to

the Assistant Deputy Minister by registered mail a statutory declaration containing an answer to the particulars stated in the appeal.

(4) The Assistant Deputy Minister shall forward the material filed pursuant to this section to the Minister.

32. (1) The Minister may, if the material filed pursuant to section 31 is not sufficient to decide the validity of the grounds of the appeal, conduct such further investigations as he deems necessary.

(2) Subject to subsection (3) the Minister may dispose of an appeal by allowing it and calling another referendum.

(3) Where the Minister is of the opinion that the grounds of the appeal

(a) are not established, or

(b) do not affect the results of the referendum,

he shall dismiss the appeal.

Forms

33. The Minister may prescribe such forms as are required for the purposes of these Regulations.

INDIAN RESERVE TRAFFIC REGULATIONS

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INDIAN RESERVE TRAFFIC REGULATIONS

C.R.C. 1978, c. 959

Regulations governing the operation of vehicles within Indian reserves

Short Title

1. These Regulations may be cited as the *Indian Reserve Traffic Regulations*.

Interpretation

2. In these Regulations,

“road”. — “road” includes any roadway, driveway, street, lane or other place open to the public for the passage of vehicles;

“vehicle”. — “vehicle” means any wagon, cart, motor car, motor truck, trailer, motorcycle, traction engine, tractor, road-making machinery or other conveyance that is driven, propelled or drawn by any kind of power.

Application

3. These Regulations apply on all roads within Indian reserves.

General

4. (1) The driver of any vehicle shall bring such vehicle to a full stop when ordered to do so by any person authorized by the Minister of Indian Affairs and Northern Development to enforce these Regulations, and shall obey all directions issued by such authorized person in respect of the routing or control of traffic, including the parking of vehicles.

(2) The driver of any vehicle shall comply with the direction of any mechanical or other device or sign installed for the control or routing of traffic.

(3) The driver of any vehicle shall not drive such vehicle over any road the use of which for public traffic is prohibited by any sign or other device.

5. The person in charge of any vehicle shall not drive or ride such vehicle at any rate of speed that is excessive or dangerous, having regard to the conditions then prevailing, and the person shall keep the vehicle in such control when approaching a road intersection, or crossing for pedestrians or other purposes, as will enable him to prevent a collision with, or damage to, all other persons and vehicles.

6. The driver of any vehicle shall comply with all laws and regulations relating to motor vehicles, which are in force from time to time in the province in which the Indian reserve is situated, except such laws or regulations as are inconsistent with these Regulations.

7. No person shall park or station any vehicle upon any road unless permission to do so is designated by signs erected over or marked on the roadway.

8. No vehicle in a dangerous or unsafe condition shall be operated on any road.

9. Any person who violates any of the provisions of these Regulations shall be guilty of an offence and shall be liable, upon summary conviction, to a penalty of not less than \$1 and not more than \$50, or to imprisonment for a term not exceeding two months.

INDIAN RESERVE WASTE DISPOSAL REGULATIONS

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INDIAN RESERVE WASTE DISPOSAL REGULATIONS

C.R.C. 1978, c. 960

Regulations respecting waste disposal in Indian reserves

Short Title

1. These Regulations may be cited as the *Indian Reserve Waste Disposal Regulations*.

Interpretation

2. In these Regulations,

“**Minister**”, — “Minister” means the Minister of Indian Affairs and Northern Development;

“**permit**”, — “permit” means a permit issued pursuant to section 5;

“**reserve**”, — “reserve” means a reserve as defined in the *Indian Act*;

“**waste**”, — “waste” includes garbage, liquid and semi-liquid substances, landfill and scrap of all kinds and any combination of any of the foregoing.

Prohibitions Respecting the Disposal or Storage of Waste

3. No person shall

(a) operate a garbage dump in a reserve, or

(b) use any land in a reserve for the disposal or storage of waste

except under the authority of a permit issued pursuant to paragraph 5(a) or (b) and in the manner specified in the permit.

4. No Indian who is lawfully in possession of any lands in a reserve and no person to whom reserve lands have been leased or who lawfully occupies, uses, resides or otherwise exercises rights on land in a reserve shall permit any person to operate on that land a garbage dump or use any part of that land for the disposal or storage of waste unless a permit to carry on that action on that land has been issued pursuant to paragraph 5(a) or (b) and is still valid.

Permits

5. The Minister or the council of a band, if authorized by the Minister pursuant to section 8, may issue to any person a permit authorizing that person

(a) to operate a garbage dump in a reserve;

(b) to use land in a reserve for the disposal or storage of waste; or

(c) to burn waste on any land in a reserve.

6. A permit shall

- (a) specify the land in respect of which the permit is issued; and
- (b) specify the manner in which the activity authorized therein shall be exercised.

7. Subject to section 11, a permit shall expire on December 31st next following the date of issue thereof.

8. The Minister may, in writing, authorize the council of any band to issue a permit in respect of land in the reserve of that band and shall, in the authorization, specify the manner in which the activity to be authorized in the permit shall be exercised.

9. The revocation of an authorization given by the Minister pursuant to section 8 does not affect the validity of any permit issued under that authorization.

Burning of Waste Prohibited

10. No person shall burn any waste on any land in a reserve except under the authority of a permit issued pursuant to paragraph 5(c).

Orders and Cancellation of Permits

11. If the holder of a permit issued pursuant to section 5

- (a) operates a garbage dump in a reserve,
 - (b) uses land in a reserve for the disposal or storage of waste, or
 - (c) burns waste on any land in a reserve other than in the manner specified in the permit,
- the Minister or the council of the band, whoever issued the permit, may cancel the permit and order the holder of the permit to close and clean up the garbage dump or to clean up the land in the reserve, as may be applicable, in a manner satisfactory to the Minister or the council.

Violation of Sections 3 and 10

12. Where a person is convicted of

- (a) operating a garbage dump in a reserve or using land in a reserve for the disposal or storage of waste except under the authority of a permit issued pursuant to paragraph 5(a) or (b), or
- (b) burning waste on land in a reserve except under the authority of a permit issued pursuant to section 5(c),

the Minister may order that person to close and clean up the garbage dump or to clean up the land, as may be applicable, in a manner satisfactory to the Minister.

Compliance with Orders

13. Any person who has been ordered by the Minister or the council of a band to do anything pursuant to section 11 or section 12 shall comply with that order without delay.

Penalties

14. Every person who violates these Regulations is liable on summary conviction to a fine not exceeding \$100 or to imprisonment for a term not exceeding three months, or to both.

INDIAN TIMBER REGULATIONS

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INDIAN TIMBER REGULATIONS

C.R.C. 1978, c. 961, as am. SOR/93-244

Regulations in respect of the cutting of timber on Indian reserves and surrendered lands

Short Title

1. These Regulations may be cited as the *Indian Timber Regulations*. SOR/93-244, Sched. I, s. 1.

Interpretation

2. In these Regulations,

“**Act**”. — “Act” means the *Indian Act*; (*Loi*)

“**Department**”. — “Department” means the Department of Indian Affairs and Northern Development; (*ministère*)

“**dues**”. — “dues” means any stumpage or royalty charges for the right or privilege of the cutting and removal of timber; (*droits*)

“**licence**”. — “licence” means any written authority or contract issued by the Minister to any person other than a member of the band on whose behalf the timber is being administered; (*licence*)

“**limit**”. — “limit” means the area included in a permit or licence; (*limite*)

“**Minister**”. — “Minister” means the Minister of Indian Affairs and Northern Development; (*Ministre*)

“**permit**”. — “permit” means any written authority given by a Minister to any Indian or band of Indians to harvest or dispose of timber products from the reserve or surrendered lands; (*permis*)

“**person**”. — “person” includes corporation, syndicate, firm and partnership. (*personne*) SOR/93-244, Sched. I, ss. 2, 14.

Application

3. These Regulations apply to the cutting of timber on Indian reserves and surrendered lands. SOR/93-244, Sched. I, s. 3.

Permits for Indian Use

4. Permits to cut timber free of dues may be issued by the Minister to a band for band purposes, or to a member or group of members of a band, to cut timber and fuel wood for or their individual use. SOR/93-244, Sched. I, s. 14.

Permits to Cut for Sale

5. (1) With the consent of the council of a band, permits to cut timber for sale may be issued by the Minister to a band or to a member or group of members of a band.

(2) Dues shall be charged at prevailing rates for timber cut on band land, and for timber harvested from individual locations or holdings of Indians the rate of dues may be reduced to one-half of such prevailing rates, and the rate of the dues shall be stated in the permit.

(3) With the approval of the Minister, permits to cut and sell timber free of dues, or at dues less than the prevailing rates, may be issued by the superintendent to Indians as a measure of relief. SOR/93-244, Sched. I, ss. 4, 13.

6. All timber cut under permit shall be measured by a licensed scaler or by some competent person appointed by the superintendent,

(a) at the place of cutting or at a concentration point adjacent thereto; or

(b) in the Province of British Columbia, either at the place of cutting or at some point between such place and the mill. SOR/93-244, Sched. I, s. 14.

7. Unless with the consent of the Minister, timber cut under permit shall not be

(a) manufactured, or

(b) except in the Province of British Columbia, removed from the place of cutting or concentration point adjacent thereto,

until it has been measured and dues paid thereon. SOR/93-244, Sched. I, ss. 13, 14.

8. All timber permits expire on April 30th in the year next following the year of issue.

Licences

9. Subject to section 10, the Minister may grant licences for the right to cut timber

(a) on surrendered lands; or

(b) with the consent of the council of a band, on reserve lands. SOR/93-244, Sched. I, s. 5.

10. Where it is estimated that the dues payable pursuant to a licence will exceed \$2,500, the Minister shall invite tenders for the licence by public advertisement. SOR/93-244, Sched. I, s. 5.

Renewals

11. (1) Timber licences expire on April 30 in the year that follows the year in which the licence was granted, unless otherwise specified in the licence.

(2) Application for renewal shall be made during the term of the licence and if the application is not made within 30 days following the date of expiration of the licence it shall thereupon determine, and in the discretion of the Minister any security given by the licensee may be declared forfeited.

(3) If a limit has not been worked during the licence year, the licensee shall, with his application for renewal, furnish a sworn statement of the reasons for his failure to operate and

a renewal shall be granted only if the Minister is satisfied with such statement. SOR/93-244, Sched. I, ss. 6, 13.

Ground Rent

12. Ground rent shall be paid for each licence year at the rate of \$10 per square mile, except in the Province of British Columbia where the rate shall be \$0.20 per acre, provided that in no case shall the rent for a licence year be less than \$40.

13. [Revoked SOR/93-244, Sched. I, s. 7.]

Security Deposit

14. (1) Every licensee shall deposit security in cash or bonds in accordance with the conditions of sale to ensure the completion of the contract and observance of its terms to the satisfaction of the Assistant Deputy Minister, and the amount of such security shall not be less than 10 per cent or in excess of 20 per cent of the estimated dues.

(2) The Minister may convert the security deposit and apply it against dues in arrears, and in such event the licence shall not be renewed until the security deposit has been restored to the full amount.

(3) If a licensee fails to comply with any condition of his contract or to complete the operation in a satisfactory manner, the Minister may declare the security deposit forfeited to the Crown for the benefit of the band.

Scaling

15. Without the consent of the Minister, timber cut under licence shall not be

(a) manufactured, or

(b) except in the Province of British Columbia, removed from the place of cutting or concentration point adjacent thereto,

until it has been measured and dues paid thereon. SOR/93-244, Sched. I, s. 13.

16. Failing any other provision in the licence, all timber cut from May 1st to November 30th in any year shall be scaled and paid for by January 31st of the year next following, and all timber cut from December 1st to April 30th in any licence year shall be scaled and paid for by June 30th next following the cutting.

17. A licensee shall at his expense supply scaler's returns verified by affidavit.

Fire Protection

18. The licensee shall pay all costs of fire protection service and of the suppression of any fire in the limit covered by his licence or occasioned by persons employed by him.

19. [Revoked SOR/93-244, Sched. I, s. 8.]

Records

20. (1) A licensee shall maintain a record of timber cut each month and, when required, shall furnish a copy of the record to the Minister.

(2) The Minister, or anyone authorized by him, shall at all times have free access to and be permitted to examine the books and memoranda kept by any licensee showing the quantity of timber in board measure sawn from logs and of other timber products cut under the licence, and failure to produce such books and memoranda when required so to do shall subject such licensee to a forfeiture of his rights under the licence. SOR/93-244, Sched. I, s. 13.

Cancellation

21. It is a condition of every licence that, if the licensee fails to comply with the terms and conditions of the licence or with these Regulations, the Minister may cancel the licence. SOR/93-244, Sched. I, s. 9.

Conservation

22. (1) With the consent of the licensee, the Minister may vary any licence in respect of one or more parts of a licensed area or in respect of any type, size or species of timber.

(2) Notwithstanding anything contained in a licence, the Minister may, for the purpose of forest management, watershed protection, fire protection or the preservation of the beauty of the landscape, game or game shelters, order the marking of such trees as are to be left standing or cut in the licensed area and order the licensee to pay the cost of such marking. SOR/93-244, Sched. I, s. 13.

23. [Revoked SOR/93-244, Sched. I, s. 10.]

24. [Revoked SOR/93-244, Sched. I, s. 10.]

Compliance with Laws

25. Every licensee shall exercise the rights conferred by the licence in accordance with the laws of the province in which the licensee is operating under the licence regarding disposal of slash, prevention of fire hazard and the conduct of timber operations. SOR/93-244, Sched. I, s. 10.

Seizure

26. (1) The Minister may seize and detain any timber and any product manufactured from timber, when he has reasonable grounds to believe that

- (a) such timber or the timber from which such product was manufactured has not been measured or counted by a scaler as required by these Regulations;
- (b) any charges in respect of such timber or on the timber from which such product was manufactured or in respect of the lands on which such timber was cut are in default; or
- (c) such timber or the timber from which such product was manufactured was not cut under the authority of a licence or permit.

(2) Any timber or product that is seized under subsection (1) may be removed to such place as the Minister may deem proper for the protection of the timber or product, and if it is seized when in possession of a carrier it shall be removed by the carrier on behalf of the Minister to such place as the Minister may direct, provided that

(a) the Department may defray the costs of transportation and other charges incurred in consequence of the directions given by the superintendent, and all such costs shall be included in the costs of seizure; and

(b) such seizure shall not prejudice or affect any lien to which the carrier may be entitled in respect of the timber or product to the time of such seizure.

(3) Where timber within the meaning of this section has been made up with other timber into a crib, dam or raft, or in any other manner has been so mixed at a mill or elsewhere as to render it impossible or difficult to distinguish such timber from other timber with which it is mixed, the whole of the timber so mixed may be seized and detained until separated by the person claiming to be the owner thereof to the satisfaction of the Minister. SOR/93-244, Sched. I, s. 13.

27. Seizure of timber or any product therefrom may be made by posting beside the timber or product a notice stating that the timber or product has been seized.

28. Where timber or any product manufactured therefrom has been seized and no claim to recover it has been made within 30 days from the date of the seizure, the timber or product is forfeited to the Crown. SOR/93-244, Sched. I, s. 11.

Proceedings following Seizure

29. (1) Any person claiming to be the owner of timber, or any product manufactured therefrom, that has been seized under section 26 may, on at least four days notice to the Minister, apply to a judge of a court of competent jurisdiction in the place in which the timber or product is held under seizure for an order for the release from seizure and delivery of the timber or product to that person.

(2) Upon receipt of a bond of the claimant, with two good and sufficient sureties in an amount not less than the market value of the timber or product and the costs of the seizure, to be forfeited to the Crown if the claimant is declared by the judge not to be the owner of the timber or product, the judge may order the timber or product to be released from seizure and to be delivered to the claimant.

(3) Upon the application of the Minister or the claimant, and upon at least 7 days notice, the judge shall determine the ownership of the timber or product whether or not it has been released and delivered to the claimant under subsection (2) and shall make an order

(a) declaring the claimant for charges, or

(i) free of any claim for charges, or

(ii) subject to payment of such dues, charges and expenses as he may find to be owing; or

(b) declaring the claimant not to be the owner and the bond, if any, forfeited to the Crown.

(4) The judge shall make such order as he may consider proper as to the costs of proceedings under this section and the costs of seizure.

(5) If the claimant is declared not to be the owner of the timber or product, it shall be disposed of in such manner as the Minister may determine. SOR/93-244, Sched. I, ss. 12, 13.

Penalties

30. Every person who

- (a) commences cutting operations without a licence or permit or who carries on any cutting operations beyond the limits of the area of such licence or permit, is liable to a penalty of not less than twice and not more than five times the amount of the dues on the timber so cut;
- (b) except under a licence, cuts or employs or induces or assists any other person to cut timber, or removes or employs or induces or assists any other person to remove timber, is liable to a penalty of not less than twice and not more than five times the amount of the dues on the timber in respect of which such contravention occurred;
- (c) interferes with any superintendent who seizes timber, is liable to a penalty not exceeding \$100 or to imprisonment for a term of three months, or to both;
- (d) removes or attempts to remove or interferes or attempts to interfere with any timber or any product manufactured therefrom after it has been seized, shall be liable to a penalty not exceeding \$100 or to imprisonment for a term of three months, or to both; or
- (e) makes or avails himself of any false statement or oath with respect to any matter under these Regulations, is liable to a penalty not exceeding \$100 or to imprisonment for a term of three months, or to both.

STUART-TREMBLEUR LAKE BAND (TANIZUL TIMBER LTD.) TIMBER REGULATIONS

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STUART-TREMBLEUR LAKE BAND (TANIZUL TIMBER LTD.) TIMBER REGULATIONS

SOR/82-171, as am. SOR/93-244

Regulations respecting the grant of a licence to cut timber on the reserve lands of the Stuart-Trembleur Lake Band of Indians

Short Title

1. These Regulations may be cited as the *Stuart-Trembleur Lake Band (Tanizul Timber Ltd.) Timber Regulations*.

Interpretation

2. In these Regulations,

“band”. — “band” means the Stuart-Trembleur Lake Band of Indians; (*bande*)

“council”. — “council” means the council of the band; (*conseil*)

“Director”. — “Director” means the Regional Director of the British Columbia Regional Office of the Department of Indian Affairs and Northern Development; (*directeur*)

“licence”. — “licence” means a licence granted pursuant to section 3; (*licence*)

“Minister”. — “Minister” means the Minister of Indian Affairs and Northern Development; (*Ministre*)

“reserve lands”. — “reserve lands” means the lands described in Schedule II; (*terres de réserve*)

“Supervisor”. — “Supervisor” means the District Manager, Department of Indian Affairs and Northern Development, Prince George, British Columbia. (*superviseur*)

Licence

3. Notwithstanding the *Indian Timber Regulations* and subject to section 4, the Minister may, with the consent of the council, grant a licence to cut timber on the reserve lands of the band to Tanizul Timber Ltd.

Terms, Conditions and Restrictions

4. A licence shall be in the form, and shall be governed by the terms and conditions, set out in Schedule I. SOR/93-244, s. 15.

5. The terms, conditions and restrictions set out in any licence are hereby imposed with respect to the exercise of rights conferred by the licence.

6. (1) Rights under a licence shall be exercised in accordance with The British Columbia Forest Act, Ministry of Forests Act and Range Act, and all regulations made thereunder, as

amended from time to time, as though the reserve lands in respect of which the licence was granted were private lands within the meaning of the British Columbia *Forest Act*.

(2) Every person who contravenes subsection (1) is liable on summary conviction to a penalty not exceeding \$100 or to imprisonment for a term not exceeding three months, or to both. SOR/93-244, s. 17.

7. Subject to section 8, the *Indian Timber Regulations* do not apply to any licence or to timber on the reserve lands in respect of which the licence is granted.

8. (1) Subject to subsections (2) and (3), sections 26 to 29 of the *Indian Timber Regulations* apply in respect of the seizure of timber from reserve lands.

(2) For the purposes of subsection (1), a reference to "Minister" in section 26, 28, or 29 of the *Indian Timber Regulations* shall be read as a reference to "Supervisor". SOR/93-244, s. 18.

(3) For the purposes of subsection (1), subsection 26(1) of the *Indian Timber Regulations* shall be deemed to read as follows:

"26. (1) The Supervisor may seize and detain any timber and any product manufactured from timber, where he has reasonable grounds to believe that

(a) such timber or the timber from which such product was manufactured has not been scaled by a scaler as required by the licence;

(b) any dues, stumpage or other charges or moneys owing in respect of such timber or on the timber from which such product was manufactured or in respect of the licence area on which such timber was cut are in default or arrears;

(c) such timber or the timber from which such product was manufactured was not cut under the authority of a licence or a licence granted under the *Stuart-Trembleur Lake Band (Tanizul Timber Ltd.) Timber Regulations*; or

(d) such timber or the timber from which such product was manufactured was removed from the licence area contrary to the licence."

SCHEDULE I

TIMBER LICENCE

This Timber Licence made the _____ day of _____
BETWEEN HER MAJESTY THE QUEEN
in right of Canada, hereinafter called "Her Majesty",

OF THE FIRST PART

AND TANIZUL TIMBER LTD.,
a corporation, incorporated under the laws of the _____
and having a registered office at _____
British Columbia,
hereinafter called "the Licensee",

OF THE SECOND PART

Whereas Her Majesty is herein represented by the Minister of Indian Affairs and Northern Development, hereinafter called "the Minister";

And Whereas the *Stuart-Trembleur Lake Band (Tanizul Timber Ltd.) Timber Regulations* authorize the Minister to grant this licence to the Licensee to cut timber on the reserve lands hereinafter described and subject to the terms, conditions and restrictions hereinafter set forth;

And Whereas the council has by resolution made this _____ day of _____, 1982 consented to the grant of this licence;

And Whereas this licence is granted so that the Licensee may obtain from the Province of British Columbia a tree farm licence covering a large area of British Columbia Crown lands adjoining the reserves of the Band;

And Whereas the tree farm licence will require the Licensee to manage the timber resources on the British Columbia Crown lands and on the reserves of the band in accordance with good reforestation and conservation practices and consistent with the other uses to which any part of those lands might more suitably be put;

And Whereas the parties and representatives of the Band agree that it is in the best interests of the Band that the management of the forest resources on the reserves of the Band be, as far as is practicable, integrated with the management of the forest resources covered by that tree farm licence;

And Whereas the desired degree of integration of management requires that a great part of the supervision of the operations of the Licensee under this licence be carried out by the appropriate officials of the Province of British Columbia in accordance with the British Columbia law which will apply to that tree farm licence and requires that the Licensee report under this licence jointly to the Minister and to the Minister of Forests.

Witnesses that the Minister on behalf of Her Majesty, pursuant to the *Stuart-Trembleur Lake Band (Tanizul Timber Ltd.) Timber Regulations*, and in consideration of the covenants and agreements herein contained, hereby grants to the Licensee the exclusive licence to cut timber on the lands described in the schedule, in accordance with the management and working plan which is in effect from time to time and pursuant to a cutting permit issued under this licence.

1. In this agreement:

- (a) "Band" means the Stuart-Trembleur Lake Band of Indians;
- (b) "Chief Forester" means the Chief Forester appointed under the *Ministry of Forests Act*;
- (c) "Director" means the Regional Director of the British Columbia Regional Office of the Department of Indian Affairs and Northern Development;
- (d) "District Manager" means the District Manager appointed under the *Ministry of Forests Act* for the forest district in which the licence area, or part, is situated;
- (e) "5 year cut control period" means the 5 year period beginning January 1 of the year when the term of this licence begins, and each successive 5 year period;
- (f) "*Forest Act*" means the *Forest Act*, R.S.B.C. 1979, ch. 140, as amended;
- (g) "Forest Officer" means a person who is designated as a forest officer under the *Forest Act*;
- (h) "Licence area" means the lands described in the schedule to this agreement;
- (i) "Minister of Forests" means the Minister of Forests for British Columbia;
- (j) "Ministry of Forests Act" means the *Ministry of Forests Act*, R.S.B.C. 1979, ch. 272;

- (k) "Receiver General" means the Receiver General for Canada;
- (l) "Regional Manager" means the regional manager appointed under the *Ministry of Forests Act* for the forest region in which the licence area is situated;
- (m) "Registered Professional Forester" means a person registered under the *Forest Act*;
- (n) "timber processing facility" has the same meaning as in the *Forest Act*;
- (o) "tree farm licence" means the tree farm licence which is to be issued by the Minister of Forests covering a large area of British Columbia Crown lands adjoining the reserves of this Band; and
- (p) "wood residue" has the same meaning as in the *Forest Act*.

Term

- 2. The term of this licence is 25 years, commencing the first day of February, 1982.
- 3. [Revoked SOR/93-244, s. 19.]

Provincial Laws

4. The British Columbia *Forest Act*, the *Ministry of Forests Act* and the *Range Act*, as amended from time to time, and all Regulations from time to time made thereunder, apply to and in respect of this licence and apply to the covenants, agreements and other obligations of the Licensee under this licence and will override them in case of any conflict.

Reporting

5. The Licensee shall forthwith furnish the Minister with a copy of every report, record, plan and other document which the Licensee is by this licence required to give to a British Columbia official and shall furnish to the Chief Forestry Officer a copy of every report, record, plan and other document which the Licensee is required by this licence to give to the Minister.

Release

6. The Licensee acknowledges that neither Her Majesty nor any person acting on Her behalf has directly or indirectly made any representations concerning

- (a) the accuracy or correctness of any survey of the licence area or the area of the licence area; or
- (b) the quantity, quality or species of the timber on the licence area.

7. The execution of this licence by the Licensee constitutes an absolute release by the Licensee in favour of Her Majesty, Her officers, servants, employees and agents of all claims by the Licensee which now exist or which may hereafter arise out of or which may in any way be attributable to the matters referred to in section 6.

Management and Working Plans

8. Not later than June 1, 1982 the Licensee shall submit for the Chief Forester's approval a proposed management and working plan for the 5 year period beginning June 1, 1982.

9. Not later than June 30, 1987, and June 30 of every fifth year afterward, the Licensee shall submit for the Chief Forester's approval a proposed management and working plan for the 5 year period beginning January 1 of the following year.

10. The Chief Forester, at the Licensee's request, or on his own initiative, in a notice to the Licensee, may require that a management and working plan be amended or replaced where

- (a) timber in the licence area is damaged by fire, wind, insects, disease, or other natural forces,
- (b) damage is caused to a timber processing facility of the Licensee, or there is labour conflict, war, civil insurrection, adverse weather conditions, depressed markets or other circumstances beyond the Licensee's control, or
- (c) serious and unforeseen damage is caused to soils, fisheries or wildlife resources of the licence area,

and the Chief Forester considers that the occurrence has rendered the management and working plan inadequate.

11. Where a notice is given under section 10,

- (a) the notice shall specify the occurrence, the extent to which the management and working plan is inadequate and the nature of the change required by the Chief Forester; and
- (b) the Licensee shall, within 6 months after the notice, submit for the Chief Forester's approval a proposed management and working plan or a proposed amendment to the management and working plan, as the case may be, to have effect during the unexpired term of the then current management and working plan.

12. A proposed management and working plan shall be prepared, signed and sealed by a registered professional forester and shall contain

- (a) information respecting the inventory of the forest resources and, where available to the Licensee, and where required by the Chief Forester, respecting the soils, fisheries and wildlife resources and recreational capabilities of the licence area;
- (b) a proposal for developing timber cutting operations and providing access on the licence area;
- (c) a proposal for protecting the forest in the licence area from damage by fire, insects and disease;
- (d) a proposal for reforestation and providing other silvicultural treatments to the licence area;
- (e) the Licensee's program for fulfilling its obligations under sections 40 to 42; and
- (f) such other information respecting the development, management and use of the licence area as the Chief Forester requires.

13. The Chief Forester shall approve, from time to time, management and working plans for the licence area, acceptable to him, that specify

- (a) an allowable annual cut that he determines may be sustained from the licence area, having regard to
 - (i) the composition of the forest on the licence area and its expected rate of growth, determined from an inventory of the forest,
 - (ii) the expected time that it will take the forest to become re-established on the licence area following denudation,

- (iii) silvicultural treatments to be applied to the licence area,
- (iv) the standard of timber utilization and the allowances for waste and breakage it is expected will be applied with respect to timber cutting operations conducted on the licence area, and
- (v) any other information that relates to the capability of the licence area to produce timber, and

(b) measures taken and to be taken by the Licensee, consistent with this licence and the *Forest Act*, for developing, protecting, restoring and improving the forest resources in the licence area, and for fulfilling its obligations under sections 40 to 42,

and any management and working plan may provide for the protection of such unique features of the licence area as are identified from time to time, by studies within the licence area, the results of which are approved by the Chief Forester.

14. A management and working plan shall be deemed to be a part of, and shall be consistent with, this licence.

Cutting Permits

15. Without the Regional Manager's or District Manager's written consent the Licensee shall not cut timber on the licence area except under a cutting permit issued under this licence, or under a road permit.

16. On application by the Licensee the Regional Manager or District Manager shall, from time to time, issue cutting permits to the Licensee, to enable the Licensee to cut timber from the licence area, within the limits specified in section 21 and according to the management and working plan then in effect.

17. A cutting permit shall, subject to the management and working plan then in effect,

- (a) authorize timber to be cut under this licence from a specific area of land in the licence area;
- (b) be for a term, not exceeding 3 years, determined by the Regional Manager;
- (c) prescribe utilization standards, other cutting specifications and forest practices to be followed in timber cutting operations carried on under it;
- (d) prescribe the specifications and standards of roads to be built on the land subject to the cutting permit;
- (e) set out procedures for assessing timber wasted and damaged by the Licensee and damages payable to the Crown for timber wasted and damaged;
- (f) specify a timber mark to be used in conjunction with the timber cutting operations carried on under it;
- (g) be deemed to be part of this licence; and
- (h) include such other provisions, consistent with this licence and the *Forest Act*, if that Act applied, as the Regional Manager determines.

18. The Licensee shall define on the ground the boundaries of the area authorized for cutting under a cutting permit, unless the Regional Manager determines otherwise.

19. Timber cut under this licence shall be marked according to the *Forest Act* and cutting permits, and shall, subject to the *Forest Act*, be scaled according to the *Forest Act*.

Cut Control

20. In this part the “volume of timber cut” during a period of time means the total of

- (a) the volume of timber cut under this licence and under road permits, and
- (b) the volume of timber that is estimated to be wasted or damaged under cutting permits issued pursuant to this licence and under road permits, and
- (c) the volume of timber cut during the period by the Licensee in the licence area, but not authorized for cutting under this licence,

that is billed to the Licensee in statements issued on behalf of Her Majesty during the period.

21. The Licensee shall not permit the volume of timber cut

- (a) during a calendar year
 - (i) to be more than 150%, or
 - (ii) to be less than 50%,

of the allowable annual cut approved in the management and working plan in effect during the calendar year, or

- (b) during a 5 year cut control period,
 - (i) to be more than 110%, or
 - (ii) to be less than 90%,

of the 5 year allowable cut for the 5 year cut control period.

22. If the volume of timber cut during a calendar year exceeds 150% of the allowable annual cut specified in the management and working plan in effect during the calendar year, the Licensee shall pay to Her Majesty, in addition to stumpage, as liquidated damages, an amount of money equal to 2 times

- (a) the volume exceeding 150%, multiplied by
- (b) the average stumpage rate applicable to timber cut under this licence, billed to the Licensee in statements issued on behalf of Her Majesty during the calendar year.

Ground Rent and Fee

23. (1) The Licensee shall pay to Her Majesty (by certified cheque or money order payable to the Receiver General) on the execution of this licence as ground rent for the term, the sum of \$500.00, the receipt of which sum by Her Majesty is hereby acknowledged.

(2) In addition to the payment referred to in subsection (1), the Licensee shall pay to Her Majesty (by certified cheque or money order payable to the Receiver General) the sum of \$10.00 as the fee for this licence, the receipt of which sum by Her Majesty is hereby acknowledged.

Security Deposit

24. The Licensee shall deposit (by certified cheque or money order payable to the Receiver General) with the Receiver General on or before the date when the Licensee commences cutting timber on the licence area the sum of \$10,000 to ensure completion of the obligations of the

Licensee hereunder and the observance by the Licensee of the provisions of this licence to the satisfaction of the Minister.

25. The Minister may convert the whole or any part of the deposit referred to in section 24 and apply the same against any dues or liquidated damages in arrears and in any such event the Licensee shall forthwith restore the deposit by depositing with the Receiver General such further sum as may be required to restore the deposit to the full sum of \$10,000.

26. If the Licensee fails to comply with or observe any of the covenants or provisions of this licence, the Minister may declare the whole or any part of the deposit referred to in section 24 forfeited to Her Majesty.

27. Subject to the other provisions of this licence, the deposit referred to in section 24 or the amount thereof remaining shall within 120 days of the expiration of this licence, if no replacement licence is granted, or if a replacement licence is granted, within 120 days of the expiration of the last replacement thereof be refunded to the Licensee.

Additional Payments

28. In addition to other money payable by the Licensee under this licence, but without duplication, the Licensee shall pay to Her Majesty, stumpage at a rate determined from time to time by the Regional Director General for British Columbia of the Department of Indian and Northern Affairs, Indian and Inuit Program.

Roads

29. The locations, specifications and standards of every road to be built by the Licensee to provide access to or in the licence area,

- (a) shall, except branch or spur roads on land that is subject to a cutting permit, be included in road permits entered into between the Minister and the Licensee; and
- (b) shall be consistent with the management and working plans in effect when a permit is issued.

30. The Licensee shall keep all the roads in the licence area open at all times so that the Forest Officer, District Manager and any other appropriate official of the Province of British Columbia may use any of those roads in performing any of that person's functions under this licence or under the tree farm licence and the Minister thereby grants each of those persons the necessary rights pursuant to subsection 28(2) of the *Indian Act*.

31. Before April 1 of each year during the term of this licence the parties shall review the road system in or serving the licence area and, after the review,

- (a) the Regional Manager, or a Forest Officer authorized by him, may, in a notice to the Licensee, identify roads that are to be maintained by the Licensee for forest protection and silviculture purposes, until April 1 of the following year; and
- (b) the Licensee shall maintain the roads according to the notice.

Forest Protection

32. Before April 1 of every year during the term of this licence, the Licensee shall submit to the Regional Manager a fire protection pre-organization plan, including a duty roster, acceptable to the Regional Manager.

33. The Regional Manager shall from time to time approve fire protection pre-organization plans acceptable to him.

34. A fire protection pre-organization plan approved by the Regional Manager shall be deemed to be part of the management and working plan then in effect and shall be consistent with this licence.

35. The Licensee's obligations under a fire protection pre-organization plan shall be in addition to and do not replace the obligations imposed by this licence equivalent to those imposed by section 121 of the *Forest Act*.

Forestry

36. The Licensee shall employ either as employees or otherwise, as many registered professional foresters as the Chief Forester considers are reasonably required to manage the licence area in accordance with this licence.

37. The Licensee shall not post a sign on or near the licence area concerning forestry practised or the development of recreation sites on the licence area, unless the sign acknowledges the contributions of Her Majesty in right of Canada and of British Columbia

Forest Service Accommodation and Access

38. After receiving reasonable notice from the Regional Manager, the Licensee shall provide the Regional Manager and Forest Officers with reasonable office and living accommodation on the licence area, or at a headquarters or timber processing facility of the Licensee near the licence area, to enable the Regional Manager and Forest Officers to carry out their responsibilities in the licence area and the Licensee may charge the Licensor the reasonable cost of the provision of such office and living accommodation.

39. The Regional Manager and Forest Officers may at reasonable times use roads on the licence area to carry out their responsibilities in the licence area.

Contractors

40. Each calendar year during the term of this licence a volume of timber equal to at least 50% of the volume of timber cut by or for the Licensee from the licence area during the year shall be cut by persons under contract with the Licensee unless Her Majesty relieves the Licensee from this requirement in whole or in part.

41. The volumes referred to in section 40 shall be calculated in accordance with the *Contractor Clause Regulations* made pursuant to the *British Columbia Forest Act*. SOR/93-244, s. 21.

42. If in a calendar year the volume of timber cut by persons under contract with the Licensee is less than the volume required under section 40, the Licensee shall on demand pay to Her Majesty, as liquidated damages, an amount of money equal to

- (a) the volume below the volume required under section 40, multiplied by
- (b) the average stumpage rate applicable to timber cut from the licence area, that is billed

to the Licensee in statements issued on behalf of Her Majesty during the calendar year. SOR/93-244, s. 22.

Timber Processing

43. All timber cut from the licence area and suitable for the manufacture of lumber shall be cut into marketable log lengths and offered for sale to holders of timber processing facilities capable of manufacturing lumber or plywood veneer, unless and except to the extent that Her Majesty relieves the Licensee from this requirement.

Liability and Indemnity

44. The Licensee shall indemnify Her Majesty and save Her Majesty harmless from all claims, costs and losses incurred, directly or indirectly, by Her Majesty as a result of wrongful acts or omissions on the licence area by

- (a) the Licensee;
- (b) an employee of the Licensee;
- (c) a person who performs work, directly or indirectly, under contract with the Licensee; or
- (d) any other person who carries on timber cutting or related operations on the licence area with the consent of the Licensee, other than a person who uses or occupies the licence area under rights granted by Her Majesty. SOR/93-244, s. 23.

45. Section 44 does not apply to an act or omission that is a reasonable response to, and complies with, an order made by Her Majesty.

46. Where the Licensee fails to perform an obligation it is required to perform under this licence, a management and working plan, a fire protection pre-organization plan approved under section _____, a cutting permit, or a road permit

- (a) the Minister may perform the obligation on the Licensee's behalf; and
- (b) the Licensee shall on demand pay Her Majesty an amount of money equal to the reasonable costs incurred under paragraph (a) to perform the obligation.

47. Liquidated damages paid by the Licensee to Her Majesty under this licence

- (a) shall be in addition to, and not in substitution for, and
- (b) shall not, if accepted on behalf of Her Majesty, be deemed to be a waiver of,

any other remedy available to Her Majesty, in respect of the default of the Licensee that led to the payment of liquidated damages.

Cancellation

48. The Minister may

- (a) if the Licensee fails to comply with the terms, conditions and restrictions of this licence or any of them,
- (b) if the Licensee fails to comply with any of the provisions of the *Stuart-Trembleur Lake Band (Tanizul Timber Ltd.) Timber Regulations* or the applicable provisions of the *Indian Timber Regulations*,

- (c) if the Licensee becomes bankrupt or makes any assignment, composition or arrangement for the benefit of its creditors,
- (d) if the Licensee ceases to be wholly owned by the Band,
- (e) if, in his opinion, a change or a proposed change in the British Columbia *Forest Act*, *Ministry of Forests Act* or *Range Act* or in any regulations made thereunder would, because of the operation of this licence, result in a change in this licence which would not be for the benefit of the Band,
- (f) if, in the opinion of the Minister, a change in a management and working plan is such that the continuation of its licence or of a replacement licence would not be for the benefit of the Band,
- (g) if, in the opinion of the Minister, the tree farm licence is cancelled in circumstances in which or is replaced by a licence such that the continuation of this licence would not be for the benefit of the Band, or
- (h) defaults in any way in its obligations,

by notice in writing to the Licensee, suspend the rights of the Licensee hereunder or declare this licence terminated and the security deposit forfeited to Her Majesty and on such declaration this licence shall thereupon be at an end and the Licensee shall have no further rights under it.

49. In the event of any termination of this licence or any forfeiture of any moneys deposited by the Licensee hereunder, whether under section 44 or under any other provision of this licence, Her Majesty shall nevertheless be entitled to recover from the Licensee all dues, liquidated damages or other moneys then accrued or accruing, and moreover, any right of action by Her Majesty against the Licensee in respect of any antecedent breach of any of the terms, conditions or restrictions herein contained shall not thereby be prejudiced.

Waiver

50. The Minister may waive the Licensee's failure to comply with or a breach by the Licensee of any of the terms, conditions or restrictions contained in this licence but no waiver is binding on Her Majesty or is effective unless it is in writing and signed by the Minister and no waiver or any failure to comply with or breach of any term, condition or restriction constitutes a waiver of any subsequent failure to comply with or breach of any term, condition or restriction or a waiver of any prior or subsequent failure to comply with or breach of any other term, condition or restriction.

Rights and Remedies

51. No right or remedy herein conferred on or reserved to Her Majesty is exclusive of any other right or remedy herein or by law provided, but each such right or remedy, whether herein or otherwise provided, shall be cumulative and shall be in addition to every other right or remedy of Her Majesty herein reserved or conferred or now or hereafter existing or provided by law or equity.

Assignment

52. The Licensee shall not, without the prior written consent of the Minister, sell, assign, pledge, encumber or dispose of this licence or any part thereof or any of the rights and privileges of the Licensee hereunder.

Books and Records

53. The Licensee shall keep proper books and records pertaining to all its operations under the licence, including the cutting and scaling of timber, the cutting reports and the scaling returns, and shall make such books and records available for audit and inspection by the Minister or any person acting on his behalf and shall allow the Minister or such person to make copies thereof and take extracts therefrom and shall furnish the Minister or such person with any information the Minister or such person may require in connection therewith.

54. The books and records referred to in section 53 shall be kept intact until the expiration of at least two years from the date of the expiry of the term, if no renewal is granted, or, if a renewal is granted, from the expiration of the last renewal thereof.

Employment of Band Members

55. The Licensee shall not discriminate against members of the Band who are available and qualified for employment by it in its operations on the licence area.

Notice

56. All notices and other communications given hereunder or with respect to this licence shall be given or made in writing and may be served personally or sent by prepaid registered mail or by telegram, telex or other telecommunication device,

(a) in the case of Her Majesty or the Minister, to the Minister of Indian Affairs and Northern Development, P.O. Box 10061, 700 West Georgia Street, Vancouver, B.C., V7Y 1C1, and

(b) in the case of the Licensee, to Tanizul Timber Ltd.

or such other address or in care of such other officer or person as the Minister or the Licensee may respectively advise each other of by notice in writing, and the date of receipt of any such notice or other communication shall be deemed to be the date of delivery, if served personally, or if mailed as aforesaid, on the third judicial day following the date of such mailing in Canada, or, if sent by telegram, telex or telecommunication device, on the day following the date on which it was sent in Canada.

House of Commons

57. No member of the House of Commons shall be admitted to any share or part of this licence or to any benefit arising therefrom.

Captions and Headings

58. The captions and headings throughout this licence are for convenience of reference only and the words contained in those captions and headings shall in no way be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provision of or the scope or intent of this licence or in any way affect this licence.

Successors and Assigns

59. This licence, including all the covenants, terms, conditions and restrictions contained in this licence, shall extend to, be binding on and enure to the benefit of Her Majesty, Her successors and assigns and to the Licensee, its successors and assigns.

In Witness Whereof the Minister of Indian Affairs and Northern Development, on behalf of Her Majesty, has hereunto set his hand and seal and the corporate seal of the Licensee has been hereunto affixed in the presence of its proper officers duly authorized in that behalf.

SIGNED, SEALED AND DELIVERED)
by the Minister of Indian)
Affairs and Northern Development,)
on behalf of Her Majesty the Queen)
in right of Canada in the presence)
of:)

_____	_____
Witness	Minister of Indian Affairs and Northern Development

SEALED, DELIVERED)	
AND ATTESTED TO)	(Corporate Seal)
by)	
the)	_____
and)	
the)	
of Tanizul Timber Ltd.)	_____

SCHEDULE II

- IR 2 (SOYANDO STAR)
- IR 3A (TEESLEE)
- IR 4 (STERAN)
- IR 8 (TEZZARON)
- IR 7A (PINCHI LAKE)
- IR 7 (PINCHI LAKE)
- IR 12 (PINCHI LAKE)
- IR 5 (CAROOSAT)

Plus the following IR's having specified excluded areas:

IR 1 (GELANGLE) save and excepting:

Commencing at a point on the shore of Trembleur Lake 200 m W., and 1610 m S., more or less, from the northeast corner of IR 1; thence, southerly and northwesterly along the shore of Trembleur Lake and Middle River to a point due west of the P of C; thence, 945 m, more or less, to the P of C.

IR 5 (GRAND RAPIDS) save and excepting:

Commencing at a point of intersection of the B.C. Railway with the south band of the

Kluzkwa River; thence 240 m W., more or less, to the east bank of the Tachie River; thence northerly along the east bank of the Tachie River to the north boundary of IR 5; thence east along the north boundary of IR 5 to the B.C. Railway; thence southerly following the B.C. Railway to the point of commencement.

IR 1 (TACHIE) save and exception:

Commencing at a point on Stuart Lake being 1910 m S. and 200 m W., more or less, from the most northerly NE corner of IR 1; thence, 2000 m E., more or less to the west boundary of Lot 3604; thence 200 m N., more or less to the most northerly internal corner of IR 1; thence, 200 m E., 200 m S., 1410 m E., 805 m S., 1210 m E., 500 m S., more or less to the most southerly SE corner of IR 1; thence 720 m W., more or less to the shore of Stuart Lake; thence, in a general northwesterly direction along the shore of Stuart Lake, to the point of commencement.

IR 2 (PINCHI) save and excepting:

Commencing at the SW corner of IR 2; thence N, along the west boundary of IR 2 to intersect with the Public Highway; thence easterly 1650 m, more or less, to a branch road heading southeasterly to the settlement of Pinchi; thence, following said branch road 1610 m, more or less, to a road junction heading north; thence 200 m E., 100 m S., more or less, to the north shore of Pinchi Bay; thence, southerly and northwesterly along the shore of Pinchi Bay to the point of commencement.

IR 3 (NANCUT) save and exception:

Commencing the SW corner of IR 3; thence, 500 m E.; thence 400 m N., more or less, to the south bank of Ucausley Creek; thence southwesterly 100 m, more or less to a crossing of Ucausley Creek; thence, crossing Ucausley Creek, northeasterly along the north bank of Ucausley Creek 360 m, more or less, to a point 600 m N., and 500 m E., more or less, of the SW corner of IR 3; thence 500 m W., more or less, to the west boundary of IR 3; thence 600 m S., more or less, to the point of commencement.

IR 4 (UCAUSLEY) save and excepting:

Commencing at the point of intersection of the west boundary of IR 4 with the north shore of Cunningham Lake; thence 240 m N.; thence, 400 m E.; thence 500 m S.; thence 240 m W., more or less, to the shore of Cunningham Lake; thence northerly and westerly along said shore to the point of commencement.

DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT ACT

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DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT ACT

R.S.C. 1985, c. I-6, as am. S.C. 1991, c. 50, s. 30; 1993, c. 28, s. 78 (Schedule III, items 75-77) (not in force at date of publication)

SHORT TITLE

1. Short title. — This Act may be cited as the *Department of Indian Affairs and Northern Development Act*.

ESTABLISHMENT OF THE DEPARTMENT

2. (1) Department established. — There is hereby established a department of the Government of Canada called the Department of Indian Affairs and Northern Development over which the Minister of Indian Affairs and Northern Development appointed by commission under the Great Seal shall preside.

(2) Minister. — The Minister holds office during pleasure and has the management and direction of the Department.

3. Deputy head. — The Governor in Council may appoint an officer called the Deputy Minister of Indian Affairs and Northern Development to hold office during pleasure and to be the deputy head of the Department.

POWERS, DUTIES AND FUNCTIONS OF THE MINISTER

4. Powers, duties and functions of Minister. — The powers, duties and functions of the Minister extend to and include all matters over which Parliament has jurisdiction, not by law assigned to any other department, board or agency of the Government of Canada, relating to

(a) Indian affairs;

(b) the Yukon Territory and the Northwest Territories and their resources and affairs; and

(b) the Yukon Territory, and Northwest Territories and Nunavut and their resources and affairs; and [1993, c. 28, s. 78 (Schedule III, item 75). Not in force at date of publication.]

(c) Inuit affairs. 1993, c. 28, s. 78 (Schedule III, item 75).

5. Idem. — The Minister shall be responsible for

(a) coordinating the activities in the Yukon Territory and the Northwest Territories of the several departments, boards and agencies of the Government of Canada;

(b) undertaking, promoting and recommending policies and programs for the further economic and political development of the Yukon Territory and the Northwest Territories; and

(a) coordinating the activities in the Yukon Territory, the Northwest Territories and Nunavut of the several departments, boards and agencies of the Government of Canada;

(b) undertaking, promoting and recommending policies and programs for the further economic and political development of the Yukon Territory, the Northwest Territories and Nunavut; and [1993, c. 28, s. 78 (Schedule III, item 76). Not in force at date of publication.]

(c) fostering, through scientific investigation and technology, knowledge of the Canadian north and of the means of dealing with conditions related to its further development. 1993, c. 28, s. 78 (Schedule III, item 76).

6. Administration. — The Minister has the administration of all lands situated in the Yukon Territory and the Northwest Territories belonging to Her Majesty in right of Canada except those lands that were immediately before October 1, 1966 under the management, charge and direction of any minister, department, branch or agency of the Government of Canada other than the Minister of Northern Affairs and National Resources or the Department of Northern Affairs and National Resources. 1991, c. 50, s. 30; 1993, c. 28, s. 78 (Schedule III, item 77).

6. The Minister has the administration of all lands situated in the Yukon Territory, the Northwest Territories and Nunavut belonging to Her Majesty in right of Canada except those lands that were immediately before October 1, 1966 under the management, charge and direction of any minister, department, branch or agency of the Government of Canada other than the Minister of Northern Affairs and National Resources or the Department of Northern Affairs and National Resources. [1993, c. 28, s. 78 (Schedule III, item 77). Not in force at date of publication.]

ANNUAL REPORT

7. Annual report. — The Minister shall, on or before January 31 next following the end of each fiscal year or, if Parliament is not then sitting, on any of the first five days next thereafter that either House of Parliament is sitting, submit to Parliament a report showing the operations of the Department for that fiscal year.

INDIAN LANDS AGREEMENT (1986) ACT

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INDIAN LANDS AGREEMENT (1986) ACT

S.C. 1988, c. 39

An Act to provide for the implementation of an agreement respecting Indian lands in Ontario

1. Short title. — This Act may be cited as the *Indian Lands Agreement (1986) Act*.

2. Definitions. — In this Act,

“**agreement**”. — “agreement” means the agreement between the Government of Canada and the Government of Ontario set out in the schedule;

“**specific agreement**”. — “specific agreement” means a specific agreement referred to in the agreement, entered into by the Government of Canada, the Government of Ontario and a band of Indians or group of bands of Indians pursuant to the agreement.

3. Binding on Her Majesty. — The agreement shall be binding on Her Majesty in right of Canada and the Governor in Council is hereby authorized to carry out the provisions of the agreement.

4. Indian Act to apply. — The *Indian Act* shall continue to apply to reserve lands and surrendered lands that are the subject of a specific agreement.

5. Regulations. — The Governor in Council may make regulations respecting the procedures to be adopted for the confirmation of a specific agreement under paragraph 10(a) of the agreement.

6. (1) Specific agreements. — Where a band confirms a specific agreement pursuant to paragraph 10(a) or (b) of the agreement, the specific agreement and any notification from the council of the band referred to in paragraph 10(b) of the agreement bind all existing and future members of the band and the council of the band and its successors.

(2) Effect of confirmation. — For greater certainty, where a specific agreement is confirmed by order of the Governor in Council, by order of the Lieutenant Governor of Ontario in Council and by the band to which the specific agreement relates, the specific agreement shall be binding on Her Majesty in right of Canada.

7. Coming into force. — This Act or any provision thereof shall come into force on a day or days to be fixed by proclamation.

SCHEDULE (Section 2)

THE 1986 INDIAN LANDS AGREEMENT

The Agreement witnesseth that the parties hereto have agreed as follows:

1. Definitions

(a) “Band”, “Council of the Band”, “Surrender”, “Custom”, and “Indian” have the

same meaning as those words in the *Indian Act*, R.S.C. 1970, c. I-6, as the same may be amended from time to time;

(b) "land" includes any interest in land;

(c) "minerals" includes gold, silver and all other metals, precious and base, and coal, natural gas, oil, salt, sand and gravel;

(d) "1924 Agreement" means the agreement between Canada and Ontario dated March 24, 1924, and the statutes confirming it, i.e., Statutes of Canada, 14-15 George V, Chapter 48, and Statutes of Ontario, 14 George V, Chapter 15.

2. Ontario, Canada, and any band or group of bands may enter into specific agreements. Any one or more Bands may enter into one or more specific agreements.

3. A specific agreement may be entered into with respect to any matter or question relating to lands or natural resources, including any of the following:

(a) any matter dealt with in the 1924 Agreement;

(b) administration and control;

(c) the exercise, allocation or transfer or disposal of any interests in lands or natural resources;

(d) minerals, mineral rights and royalties, and the disposition or taxation of any of them;

(e) hydro powers;

(f) disposition of lands or natural resources;

(g) consequences of extinction or enfranchisement of a band;

(h) disposition of any monies;

(i) the non-applicability of any section or sections of the 1924 Agreement;

(j) any other provision required for the implementation of a specific agreement.

4. The provisions of any specific agreement shall have effect upon confirmation. In the event of any inconsistency with the 1924 Agreement, the specific agreement shall supersede.

5. Neither this Agreement nor any specific agreement shall affect the validity of any treaty or surrender.

6. Canada and Ontario may enter into an agreement or agreements for the confirmation of patents issued or other dispositions of land by the other with respect to land, but no such agreement or confirmation shall in any way affect the rights of any band or the recourse which any band would, absent such agreement, have against any person or land, including the Crown and Crown lands.

7. If Canada has collected money or collects money on behalf of any band or bands pursuant to sales or other dispositions of land or interests in land, Ontario acknowledges that Canada may continue to administer that money for the use and benefit of the band or bands, but in no case shall money collected by Canada expressly on behalf of Ontario be deemed to be money collected by Canada on behalf of a band or bands.

8. This Agreement shall come into force when it is confirmed by the Parliament of Canada and the Legislature of Ontario and such confirmations come into force.

9. A specific agreement shall come into force when it is confirmed by Orders in Council of both Canada and Ontario and is confirmed by the band.

10. Confirmation by a band of a specific agreement shall take place

(a) by a Referendum conducted pursuant to regulations made by the Governor General in Council under the authority of the Act of Parliament implementing this agreement, or
(b) pursuant to the band's custom or constitution, provided that the Council of the band gives written notification to the Minister of Indian Affairs and Northern Development and to the Minister of Natural Resources for Ontario that confirmation took place pursuant to the band's custom or constitution, as the case may be.

11. Where a specific agreement affects or deals with lands, lands affected shall be described in a schedule to the specific agreement.

12. No specific agreement entered into by any band shall be binding upon any other band or have any effect on any other band unless it has been confirmed by that other band.

13. A specific agreement may be amended by the parties or their successors in the same manner as it was originally made.

SPECIFIC AGREEMENT CONFIRMATION REGULATIONS

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SPECIFIC AGREEMENT CONFIRMATION REGULATIONS

SOR/92-677

Regulations respecting the confirmation of specific agreements by referendum

Short Title

1. These Regulations may be cited as the *Specific Agreement Confirmation Regulations*.

Interpretation

2. In these Regulations,

“**Assistant Deputy Minister**”. — “Assistant Deputy Minister” means the Assistant Deputy Minister, Lands, Revenues and Trusts, of the Department of Indian Affairs and Northern Development; (*sous-ministre adjoint*)

“**band**”. — “band” means a band in respect of which a referendum is to be held; (*bande*)

“**deputy presiding officer**”. — “deputy presiding officer” means a person appointed by the presiding officer pursuant to paragraph 9(1)(a); (*président du scrutin*)

“**Minister**”. — “Minister” means the Minister of Indian Affairs and Northern Development; (*ministre*)

“**peace officer**”. — “peace officer” means a sheriff, deputy sheriff, sheriff’s officer, police officer, police constable or any other person who is employed for the preservation and maintenance of the public peace; (*agent de la paix*)

“**presiding officer**”. — “presiding officer” means a presiding officer appointed pursuant to subsection 4(1); (*président d’élection*)

“**referendum**”. — “referendum” means a referendum held under section 10 of the schedule to the *Indian Lands Agreement (1986) Act* to confirm a specific agreement. (*référéndum*)

Secret Ballot

3. A referendum shall be conducted by secret ballot.

Appointment of Presiding Officer

4. (1) Where a band proposes to confirm a specific agreement by referendum, the council of the band shall, within 15 days after the band enters into the specific agreement, appoint a presiding officer and inform the Minister of the date on which the referendum is to be held and the name of the presiding officer.

(2) On receipt of the information referred to in subsection (1), the Minister may designate an official of the Department of Indian Affairs and Northern Development to be an observer at the referendum and shall inform the council of the band of the name of any official so designated.

Eligible Voters

5. Every person is an eligible voter and entitled to vote at a referendum who

- (a) is a member of the band;
- (b) is at least 18 years of age; and
- (c) is not disqualified from voting at band elections.

Notice of Referendum

6. (1) The presiding officer shall post a notice of the referendum in the form prescribed by the Minister at least 30 days before the date of the referendum in at least two public places where the notice is likely to come to the attention of the members of the band.

(2) The notice referred to in subsection (1) shall set out

- (a) the time and date of the referendum;
- (b) the question to be submitted to the voters; and
- (c) the location of the polling stations.

(3) A copy of the specific agreement that is the subject of the referendum shall be attached to the notice referred to in subsection (1).

Voters' List

7. At least 15 days before the date of the referendum, the presiding officer shall

- (a) prepare a list, in alphabetical order, of every eligible voter that indicates the polling station where each person is to vote; and
- (b) post a copy of the list of eligible voters in at least two public places where the list is likely to come to the attention of the members of the band.

8. (1) An eligible voter may apply to the presiding officer within 10 days after the posting of the list of voters to have the list revised on the ground that

- (a) the name of an eligible voter has been omitted;
- (b) the name of an eligible voter has been incorrectly set out; or
- (c) the name of a person not entitled to vote has been included.

(2) Where the presiding officer is satisfied that a revision is necessary to the list of eligible voters, the presiding officer shall revise the list accordingly.

Duties of Presiding Officer

9. (1) Before the referendum, the presiding officer shall

- (a) appoint a deputy presiding officer for each polling station to exercise the powers and perform the duties of the presiding officer under sections 10 to 18, subsection 19(1), and sections 21 and 23;
- (b) prepare a sufficient number of ballots that indicate the question to be submitted to the voters;

- (c) procure a ballot box and an adequate supply of lead pencils for marking the ballots for each polling station;
- (d) before a polling station opens, deliver a ballot box, ballots and pencils to the deputy presiding officer at that polling station; and
- (e) provide at least one polling booth for each polling station where a voter can mark a ballot free from observation.

(2) The appointment of deputy presiding officers pursuant to paragraph (1)(a) shall be approved by the council of the band.

10. Immediately before a polling station is opened, the presiding officer shall

- (a) open the ballot box in the presence of witnesses and ask every person who is present to witness that it is empty;
- (b) lock and seal the ballot box; and
- (c) place the ballot box in public view for the reception of ballots.

11. Where a person arrives at a polling station for the purpose of voting and the presiding officer is satisfied that the person's name is included on the list of eligible voters, the presiding officer shall

- (a) initial the back of a ballot in such a manner that, when the ballot is folded, the initials can be seen without unfolding the ballot;
- (b) give the ballot to that person; and
- (c) place a mark opposite the name of that person on the list of voters.

12. At the request of a voter at a polling station, the presiding officer shall explain to the voter how to vote.

13. Subject to section 16, the presiding officer shall not allow more than one voter at a time in a polling booth.

Use of Interpreters

14. Where the presiding officer does not understand the language spoken by a voter, the presiding officer shall appoint an interpreter to communicate to the voter all matters necessary to enable the voter to vote.

Responsibilities of Voter

15. A person who receives a ballot pursuant to section 11 shall

- (a) go immediately to a polling booth;
- (b) place a mark on the ballot beside the word "YES" or "NO" opposite the question stated on the ballot;
- (c) fold the ballot in a manner that conceals the person's mark but exposes the initials on the back of the ballot; and
- (d) immediately deliver the ballot to the presiding officer for deposit in the ballot box.

Assistance to Special Voters

16. (1) At the request of a voter who is not able to read or who is incapacitated by blindness or other physical cause, the presiding officer shall

- (a) assist the voter by marking the ballot in the manner directed by the voter and placing the ballot in the ballot box; or
- (b) if it is practicable and helpful to do so, provide a template for the use of the voter.

(2) Where, pursuant to subsection (1), the presiding officer marks a ballot, the officer shall indicate on the list of voters, opposite the name of the voter, that the ballot was marked by the officer at the request of the voter, and the reasons therefor.

Soiled or Spoiled Ballots

17. Where a voter receives a soiled or improperly printed ballot or inadvertently spoils a ballot in marking it, the voter is entitled to another ballot if the voter returns the original ballot to the presiding officer.

Forfeit of Right to Vote

18. Where a voter who receives a ballot refuses to vote or leaves the polling booth without returning the ballot to the presiding officer, the voter forfeits the right to vote and the presiding officer shall indicate on the list of voters opposite the name of that voter that the voter did not return the ballot or refused to vote, as the case may be.

Hours for Voting

19. (1) Subject to subsection (2), the presiding officer shall keep each polling station open from 9:00 a.m. until 6:00 p.m. on the day set for voting.

(2) Where the presiding officer is satisfied, after consulting with the chief or a member of the council of the band, that it would be inconvenient to the voters to close the polling stations at 6:00 p.m., the presiding officer or deputy presiding officer may keep them open for up to two additional hours.

20. A voter who is inside a polling station at the time fixed for closing the polling station is entitled to vote before the polling station is closed.

Examination and Counting of Ballots

21. Immediately after the closing of a polling station, the presiding officer shall examine the ballots in the presence of any members of the council of the band who are present and shall

- (a) reject any ballot that was not supplied by the presiding officer and any ballot that does not clearly indicate the decision of the voter; and
- (b) of the ballots that have not been rejected, count the number of votes that were in favour of and the number of votes that were against the specific agreement.

22. (1) The presiding officer shall collect the ballots used in the voting, place them in a sealed envelope and keep them for 60 days.

(2) After the 60 days referred to in subsection (1), the presiding officer shall destroy the ballots in the presence of two witnesses unless the Assistant Deputy Minister directs the officer not to destroy them.

Maintaining Peace and Order

23. The presiding officer shall maintain peace and good order during the voting and for that purpose may enlist the assistance of peace officers.

Report on Referendum

24. (1) When the presiding officer knows the results of the voting at all of the polling stations, the presiding officer shall immediately prepare a report that sets out

- (a) the date on which the referendum was held;
- (b) the number of eligible voters;
- (c) the number of eligible voters who voted;
- (d) the number of votes in favour of the specific agreement;
- (e) the number of votes against the specific agreement; and
- (f) the number of rejected ballots.

(2) The report shall be prepared in triplicate and be signed by the presiding officer and by the chief or a member of the council of the band.

(3) The presiding officer shall submit a copy of the report to the chief or a member of the council of the band and to the Assistant Deputy Minister.

25. Within seven days after a referendum is held, an observer designated under subsection 4(2) shall submit a written report to the Minister that sets out the information referred to in paragraphs 24(1)(a) to (f).

26. The Assistant Deputy Minister shall inform the Attorney General of Ontario of the results of the vote within 15 days after receipt of the report referred to in section 24.

Approval Requirement for Confirmation

27. Where a majority of all eligible voters of a band vote in a referendum, a specific agreement is confirmed if a majority of those who vote assent to it.

Subsequent Referendum

28. (1) Where a majority of all eligible voters of a band did not vote in a referendum, the council of the band may, if the proposed specific agreement was assented to by a majority of those who voted, call another referendum to be held in accordance with these Regulations.

(2) Where under a referendum that is called under subsection (1) the proposed specified agreement is assented to by a majority of those who vote, the specific agreement is confirmed.

Appeal

29. (1) Any person who voted at a referendum may file an appeal if that person believes on reasonable grounds that

- (a) there was a contravention of these Regulations that may have affected the results of the referendum; or

(b) there occurred a corrupt practice in connection with the referendum.

(2) An appeal under subsection (1) shall be filed by sending by registered mail to the Assistant Deputy Minister, within seven days after the date of the referendum, a notice of appeal stating the grounds and particulars of the appeal.

30. (1) Not later than 21 days after receipt of a notice of appeal, the Assistant Deputy Minister shall send a copy of the notice of appeal by registered mail to the presiding officer.

(2) Not later than 10 days after receipt of a copy of a notice of appeal, the presiding officer shall send to the Assistant Deputy Minister by registered mail a statutory declaration that contains an answer to the particulars stated in the notice of appeal.

(3) On receipt of the declaration provided by the presiding officer pursuant to subsection (2), the Assistant Deputy Minister shall forward the notice of appeal and the declaration to the Minister.

31. The Minister may, if the material filed under subsections 29(2) and 30(2) is not sufficient to decide the validity of the grounds of appeal, conduct a further investigation.

32. (1) Where the Minister is satisfied that the grounds for an appeal are established and that the result of the referendum was thereby affected, the Minister shall allow the appeal, direct that another referendum be conducted, and notify the council of the band of the decision.

(2) Where the Minister is of the opinion that the grounds for an appeal are not established or did not affect the results of the referendum, the Minister shall dismiss the appeal and notify the council of the band of the decision.

Forms

33. The Minister may prescribe such forms as are required for the purposes of these Regulations.

BRITISH COLUMBIA INDIAN LANDS SETTLEMENT ACT

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BRITISH COLUMBIA INDIAN LANDS SETTLEMENT ACT

S.C. 1920, c. 51

An Act to provide for the Settlement of Differences between the Governments of the Dominion of Canada and the Province of British Columbia respecting Indian Lands and certain other Indian Affairs in the said Province.

Preamble. — WHEREAS by Memorandum of Agreement bearing date the twenty-fourth day of September, one thousand nine hundred and twelve, made between J.A.J. McKenna, Special Commissioner appointed by the Governor in Council to investigate the condition of Indian affairs in British Columbia, and the Honourable Sir Richard McBride as Premier of the Province of British Columbia, an Agreement was arrived at, subject to the approval of the Governments of the Dominion and of the Province, for the purpose of settling all differences between the said Governments respecting Indian lands and Indian affairs generally in the Province of British Columbia, and for the final adjustment of all matters relating thereto by the appointment of a Royal Commission for the purpose set out in the Agreement; and whereas by orders in council subsequently made by the respective Governments of the Dominion and the Province the said Agreement was approved, subject to the further provision that, notwithstanding anything in the said Agreement contained, the acts and proceedings of the Royal Commission shall be subject to the approval of the two Governments, and that the Governments agree to consider favourably the reports, whether final or interim, of the Royal Commission, with a view to give effect as far as reasonably may be to the acts, proceedings and recommendations of the Royal Commission, and to take all such steps and proceedings as may be reasonably necessary with the object of carrying into execution the settlement provided for by the Agreement in accordance with its true intent and purpose; and whereas a Royal Commission on Indian affairs for the Province of British Columbia was duly appointed for the purpose of carrying out the said Agreement; and whereas the said Royal Commission has since reported its recommendations as to lands reserved and to be reserved for Indians in the Province of British Columbia, and otherwise for the settling of all differences between the said Governments respecting Indian lands and Indian affairs generally in the said Province; Now, therefore, His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: —

1. Short title. — This Act may be cited as *The British Columbia Indian Lands Settlement Act*.

2. Power given to Governor in Council to settle differences between Canada and B.C. with respect to Indian matters. — To the full extent to which the Governor in Council may consider it reasonable and expedient the Governor in Council may do, execute, and fulfil every act, deed, matter or thing necessary for the carrying out of the said Agreement between the Governments of the Dominion of Canada and the Province of British Columbia according to its true intent, and for giving effect to the report of the said Royal Commission, either in whole or in part, and for the full and final adjustment and settlement of all differences between the said Governments respecting Indian lands and Indian affairs in the Province.

3. Power to order reductions or cutoffs from reserves without surrender by Indians. — For the purpose of adjusting, readjusting or confirming the reductions or cutoffs from

reserves in accordance with the recommendations of the Royal Commission, the Governor in Council may order such reductions or cutoffs to be effected without surrenders of the same by the Indians, notwithstanding any provisions of the *Indian Act* to the contrary, and may carry on such further negotiations and enter into such further agreements with the Government of the Province of British Columbia as may be found necessary for a full and final adjustment of the differences between the said Governments.

**AN ACT FOR THE SETTLEMENT OF CERTAIN
QUESTIONS BETWEEN THE GOVERNMENTS OF CANADA
AND ONTARIO RESPECTING INDIAN RESERVE LANDS**

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AN ACT FOR THE SETTLEMENT OF CERTAIN QUESTIONS BETWEEN THE GOVERNMENTS OF CANADA AND ONTARIO RESPECTING INDIAN RESERVE LANDS

S.C. 1924, c. 48

1. Agreement binding, and Governor in Council authorized to carry out its provisions. — The agreement between the Dominion of Canada and the Province of Ontario, in the terms set out in the schedule hereto, shall be as binding on the Dominion of Canada as if the provisions thereof had been set forth in an Act of this Parliament, and the Governor in Council is hereby authorized to carry out the provisions of the said agreement.

SCHEDULE

MEMORANDUM OF AGREEMENT made in triplicate this 24th day of March 1924.

BETWEEN the Government of the Dominion of Canada, acting herein by the Honourable Charles Stewart, Superintendent General of Indian Affairs, of the first part,
AND the Government of the Province of Ontario, acting herein by the Honourable James Lyons, Minister of Lands and Forests, and the Honourable Charles McCrea, Minister of Mines, of the second part.

WHEREAS from time to time treaties have been made with the Indians for the surrender for various considerations of their personal and usufructuary rights to territories now included in the Province of Ontario, such considerations including the setting apart for the exclusive use of the Indians of certain defined areas of land known as Indian Reserves;

AND WHEREAS, except as to such Reserves, the said territories were by the said treaties freed, for the ultimate benefit of the Province of Ontario, of the burden of the Indian rights, and became subject to be administered by the Government of the said Province for the sole benefit thereof;

AND WHEREAS the surrender of the whole or some portion of a Reserve by the band of Indians to whom the same was allotted has, in respect of certain Reserves in the Provinces of Ontario and Quebec, been under consideration in certain appeals to the Judicial Committee of the Privy Council, and the respective rights of the Dominion of Canada and the Province of Ontario, upon such surrenders being made, depend upon the law as declared by the Judicial Committee of the Privy Council and otherwise affecting the Reserve in question, and upon the circumstances under which it was set off;

AND WHEREAS on the 7th day of July, 1902, before the determination of the last two of the said appeals, it had been agreed between counsel for the Governments of the Dominion of Canada and the Province of Ontario, respectively, that, as a matter of policy and convenience, and without thereby affecting the constitutional or legal rights of either of the said Governments, the Government of the Dominion of Canada should have full power and authority to sell, lease and convey title in fee simple or for any less estate to any lands forming part of any Reserve thereafter surrendered by the Indians, and that any such sales, leases or other conveyances as had theretofore been made by the said Government should be confirmed by the Province of Ontario, the Dominion of Canada, however, holding the proceeds of any lands so sold, leased or conveyed subject, upon the extinction of the Indian interest therein and so far as such proceeds had been converted into money, to such rights of the Province of Ontario as might exist by law;

AND WHEREAS by the said agreement it was further provided that, as to the Reserves set aside for the Indians under a certain treaty made in 1873 and recited in the Schedule to the Dominion Statute, 54-55 Victoria, chapter 5, and the Statute of the Province of Ontario, 54 Victoria, chapter 3, the precious metals should be considered to form part thereof and might be disposed of by the Dominion of Canada in the same way and subject to the same conditions as the land in which they existed, and that the question whether the precious metals in the lands included in Reserves set aside under other treaties were to be considered as forming part thereof or not, should be expressly left for decision in accordance with the circumstances and the law governing each;

NOW THIS AGREEMENT WITNESSETH that the parties hereto, in order to settle all outstanding questions relating to Indian Reserves in the Province of Ontario, have mutually agreed, subject to the approval of the Parliament of Canada and the Legislature of the Province of Ontario, as follows: —

1. All Indian Reserves in the Province of Ontario heretofore or hereafter set aside, shall be administered by the Dominion of Canada for the benefit of the band or bands of Indians to which each may have been or may be allotted; portions thereof may, upon their surrender for the purpose by the said band or bands, be sold, leased or otherwise disposed of by letters patent under the Great Seal of Canada, or otherwise under the direction of the Government of Canada, and the proceeds of such sale, lease or other disposition applied for the benefit of such band or bands, provided, however, that in the event of the band or bands, to which any such Reserve has been allotted becoming extinct, or it, for any other reason, such Reserve, or any portion thereof is declared by the Superintendent General of Indian Affairs to be no longer required for the benefit of the said band or bands, the same shall thereafter be administered by, and for the benefit of, the Province of Ontario, and any balance of the proceeds of the sale or other disposition of any portion thereof then remaining under the control of the Dominion of Canada shall, so far as the same is not still required to be applied for the benefit of the said band or bands of Indians, be paid to the Province of Ontario, together with accrued unexpended simple interest thereon.

2. Any sale, lease or other disposition made pursuant to the provisions of the last preceding paragraph may include or may be limited to the minerals (including the precious metals) contained in or under the lands sold, lease or otherwise disposed of, but every grant shall be subject to the provisions of the statute of the Province of Ontario entitled "The Bad of Navigable Waters Act", Revised Statutes of Ontario, 1914, chapter thirty-one.

3. Any person authorized under the laws of the Province of Ontario to enter upon land for the purpose of prospecting for minerals thereupon shall be permitted to prospect for minerals in any Indian Reserve upon obtaining permission so to do from the Indian Agent for such Reserve and upon complying with such conditions as may be attached to such permission, and may stake out a mining claim or claims on such Reserve.

4. No person not so authorized under the laws of the Province of Ontario shall be given permission to prospect for minerals upon any Indian Reserve.

5. The rules governing the mode of staking and the size and number of mining claims in force from time to time in the Province of Ontario or in part thereof within which any Indian Reserve lies shall apply to the staking of mining claims on any such Reserve, but the staking of a mining claim upon any Indian Reserve shall confer no rights upon the person by whom such claim is staked except such as may be attached to such staking by the Indian Act or other law relating to the disposition of Indian Lands.

6. Except as provided in the next following paragraph, one-half of the consideration payable, whether by way of purchase money, rent, royalty or otherwise, in respect of any sale, lease or other disposition of a mining claim staked as aforesaid, and, if in any other sale, lease

or other disposition hereafter made of Indian Reserve lands in the Province of Ontario, any minerals are included, and the consideration for such sale, lease or other disposition was to the knowledge of the Department of Indian Affairs affected by the existence or supposed existence in the said lands of such minerals, one-half of the consideration payable in respect of any other such sale, lease or other disposition, shall forthwith upon its receipt from time to time, be paid to the Province of Ontario; the other half only shall be dealt with by the Dominion of Canada as provided in the paragraph of this agreement numbered 1.

7. The last preceding paragraph shall not apply to the sale, lease or other disposition of any mining claim or minerals on or in any of the lands set apart as Indian Reserves pursuant to the hereinbefore recited treaty made in 1873, and nothing in this agreement shall be deemed to detract from the rights of the Dominion of Canada touching any lands or minerals granted or conveyed by His Majesty for the use and benefit of Indians by letters patent under the Great Seal of the Province of Ontario, or in any minerals vested for such use and benefit by the operation upon any such letters patent of any statute of the Province of Ontario.

8. No water-power included in any Indian Reserve, which in its natural condition at the average low stage of water has a greater capacity than five hundred horsepower, shall be disposed of by the Dominion of Canada except with the consent of the Government of the Province of Ontario and in accordance with such special agreement, if any, as may be made with regard thereto and to the division of the purchase money, rental or other consideration given therefor.

9. Every sale, lease or other disposition heretofore made under the Great Seal of Canada or otherwise under the direction of the Government of Canada of lands which were at the time of such sale, lease or other disposition including in any Indian Reserve in the Province of Ontario, is hereby confirmed, whether or not such sale, lease or other disposition including in the precious metals, but subject to the provisions of the aforesaid statute of the Province of Ontario entitled "The Bed of Navigable Waters Act", and the consideration received in respect of any such sale lease or other disposition shall be and continue to be dealt with by the Dominion of Canada in accordance with the provisions of the paragraph of this agreement numbered 1, and the consideration received in respect of any sale, lease or other disposition heretofore made under the Great Seal of the Province of Ontario, or under the direction of the Government of the said Province, of any lands which at any time formed part of any Indian Reserve, shall remain under the exclusive control and at the disposition of the Province of Ontario.

10. Nothing herein contained, except the provision for the application of "The Bed of Navigable Waters Act" aforesaid, shall affect the interpretation which would, apart from this agreement, be put upon the words of any letters patent heretofore or hereafter issued under the Great Seal of Canada or the Great Seal of the Province of Ontario, or of any lease or other conveyance, or of any contract heretofore or hereafter made under the direction of the Government of Canada or of the Province of Ontario.

IN WITNESS WHEREOF these presents have been signed by the parties thereto the day and year above written.

INDIAN OIL AND GAS ACT

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INDIAN OIL AND GAS ACT

R.S.C. 1985, c. I-7

An Act respecting oil and gas in Indian lands

SHORT TITLE

1. This Act may be cited as the *Indian Oil and Gas Act*.

INTERPRETATION

2. **Definitions.** — In this Act,

“gas”. — “gas” means natural gas that is or can be produced from a well, both before and after it has been subjected to any processing, and includes marketable gas and all fluid components not defined as oil;

“Indian lands”. — “Indian lands” means lands reserved for the Indians, including any interests therein, surrendered in accordance with the *Indian Act* and includes any lands or interests in lands described in any grant, lease, permit, licence or other disposition referred to in section 5;

“Minister”. — “Minister” means the Minister of Indian Affairs and Northern Development;

“oil”. — “oil” means crude oil and all other hydrocarbons, regardless of gravity, that are or can be produced from a well in liquid form including crude bitumen but excluding condensate.

GENERAL

3. **Regulations.** — The Governor in Council may make regulations

(a) respecting the granting of leases, permits and licences for the exploitation of oil and gas in Indian lands, and the terms and conditions thereof;

(b) respecting the disposition of any interest in Indian lands necessarily incidental to the exploitation of oil and gas in those lands, and the terms and conditions thereof;

(c) providing for the seizure and forfeiture of any oil or gas taken in contravention of any regulation made under this section or any lease, licence or permit granted under such regulation;

(d) prescribing the royalties on oil and gas obtained from Indian lands;

(e) prescribing the fine not exceeding five thousand dollars that may be imposed on summary conviction for contravention of any regulation made under this section or failure to comply with any lease, permit or licence granted pursuant to any regulation under this section; and

(f) generally for carrying out the purposes of this Act and for the exploitation of oil and gas in Indian lands.

4. (1) **Royalties.** — Notwithstanding any term or condition in any grant, lease, permit, licence or other disposition or any provision in any regulation respecting oil or gas or both oil and gas or the terms and conditions of any agreement respecting royalties in relation to oil or

gas or both oil and gas, whether granted, issued, made or entered into before or after December 20, 1974, but subject to subsection (2), all oil and gas obtained from Indian lands after April 22, 1977 is subject to the payment to Her Majesty in right of Canada, in trust for the Indian bands concerned, of the royalties prescribed from time to time by the regulations.

(2) **Special agreements.** — The Minister may, with the approval of the council of the band concerned, enter into a special agreement with any person for a reduction or an increase, or a variation in the basis of calculation of royalties payable under subsection (1).

5. Existing grants, leases, etc. — Every grant, lease, permit, licence or other disposition respecting the exploitation of oil or gas in Indian lands, whether granted, issued, made or entered into before or after December 20, 1974, and, without restricting the generality of the foregoing, any grant, lease, permit, licence or other disposition respecting oil or gas or both oil or [sic] gas issued or made or purported to be issued or made pursuant to any other regulation or order made under the provisions of the *Indian Act* is deemed to be subject to any regulations made under this Act.

6. (1) Minister to consult. — The Minister, in administering this Act, shall consult, on a continuing basis, persons representative of the Indian bands most directly affected thereby.

(2) **Rights not abrogated.** — Nothing in this Act shall be deemed to abrogate the rights of Indian people or preclude them from negotiating for oil and gas benefits in those areas in which land claims have not been settled.

INDIAN OIL AND GAS REGULATIONS

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INDIAN OIL AND GAS REGULATIONS

C.R.C. 1978, c. 963, as am. SOR/81-340

Regulations respecting oil and gas in Indian lands

Short Title

1. These Regulations may be cited as the *Indian Oil and Gas Regulations*.

Interpretation

2. (1) In these Regulations,

“**Act**”. — “Act” means the *Indian Oil and Gas Act*; (*Loi*)

“**Band Council**”. — “Band Council” means the council of a band as defined in the *Indian Act* exercising its powers in the manner contemplated by subsection 2(3) of that Act; (*conseil de bande*)

“**commercial quantity**”. — “commercial quantity”, in relation to the output of a well, means such quantity of oil or gas as, in the opinion of the Manager, after considering the cost of drilling and production operations and the quantity of production and availability of markets, would economically warrant the drilling of a like well in the immediate area; (*quantité commerciale*)

“**condensate**”. — “condensate” means a mixture mainly of pentanes and heavier hydrocarbons that

(a) may be contaminated with sulphur compounds,

(b) is recovered or is recoverable at a well from an underground reservoir, and

(c) may be gaseous in its virgin reservoir state but is liquid at the conditions under which its volume is measured or estimated; (*condensat*)

“**contract**”. — “contract” means a permit, lease, licence or other disposition issued, made or granted under these Regulations and, unless the context otherwise requires, includes a grant, permit, lease, licence or other disposition that is deemed to be subject to these Regulations by section 6 of the Act; (*contrat*)

“**contract area**”. — “contract area” means the land described in a contract;

“**crude bitumen**”. — “crude bitumen” means a naturally occurring viscous mixture, mainly of hydrocarbons heavier than pentane, that in its natural viscous state is not recoverable through a well in commercial quantity; (*bitume brut*)

“**Department**”. — “Department” means the Department of Indian Affairs and Northern Development; (*ministère*)

“**exploratory licence**”. — “exploratory licence” means an exploratory licence granted under section 5;

“**exploratory work**”. — “exploratory work” includes mapping, surveying, geological exam-

inations, geophysical examinations, geochemical examinations, test drilling and other investigations conducted by air, land or water and related to the exploration for oil and gas; (*travaux d'exploration*)

“field”. — “field”

(a) means a general surface area or areas underlain or appearing to be underlain by one or more pools, and

(b) includes the subsurface regions vertically beneath the general surface area or areas referred to in paragraph (a); (*champ*)

“former regulations”. — “former regulations” means the *Indian Oil and Gas Regulations* made by Order in Council P.C. 1966-1271 of July 7, 1966, as amended, or any previous regulations made under the *Indian Act* respecting grants, leases, permits, licences or other dispositions governing oil or gas or oil and gas; (*ancien règlement*)

“gas”. — “gas” means natural gas that is or can be produced from a well, both before and after it has been subjected to any processing, and includes marketable gas and all fueled components not defined as oil; (*gaz*)

“lease”. — “lease” means a lease of oil and gas rights or surface rights granted under these Regulations and, unless the context otherwise requires, includes a lease that is deemed to be subject to these Regulations by section 6 of the Act; (*bail*)

“lease area”. — “lease area” means the land described in a lease;

“Manager”. — “Manager” means the Manager of Indian Minerals of the Department; (*gestionnaire*)

“marketable gas”. — “marketable gas” means gas that consists mainly of methane originating from raw gas, and meets specifications for use as a domestic, commercial or industrial fuel or as an industrial raw material; (*gaz commercial*)

“Minister”. — “Minister” means the Minister of Indian Affairs and Northern Development; (*Ministre*)

“oil”. — “oil” means crude oil and all other hydrocarbons, regardless of gravity, that are or can be produced from a well in liquid form including crude bitumen but excluding condensate; (*pétrole*)

“operator”. — “operator” means a person engaged in any work or activity on Indian lands pertaining to the exploitation of oil and gas and includes the holder of a contract and his employees, servants and agents; (*exploitant*)

“paying quantity”. — “paying quantity” means the output or potential output of such quantity of oil or gas produced from a well as, in the opinion of the Manager, would commercially and economically warrant the taking of such oil or gas; (*quantité rentable*)

“permit”. — “permit” means an oil and gas permit granted under these Regulations and, unless the context otherwise requires, includes a permit that is deemed to be subject to these Regulations by section 6 of the Act; (*permis*)

“permit area”. — “permit area” means the land described in a permit;

“person”. — “person” means an individual of the full age of majority or an incorporated

company registered or licensed in Canada or in any province thereof to carry out the activities it is undertaking or proposes to undertake; (*personne*)

“pool”. — “pool” means a natural underground reservoir containing or appearing to contain an accumulation of oil or gas or both oil and gas and that is separated or appears to be separated from any other such accumulation; (*gisement*)

“pooling”. — “pooling” means the combining or integrating of interests in oil or gas rights for the purpose of constituting a spacing unit; (*mise en commun*)

“production operation”. — “production operation” means an operation designated in writing by the Manager to be equivalent to a project operation; (*entreprise de production*)

“production spacing unit”. — “production spacing unit” means that area designated by the appropriate provincial authority for the production of oil or gas where a distinction is made between the areas assigned for production and for drilling purposes; (*unité d’espacement de production*)

“project”. — “project” means that part of a pool or pools that is within the area to which a project operation applies; (*chantier*)

“project operation”. — “project operation” means an operation in accordance with a scheme or plan approved by the appropriate provincial authority for the drilling for or production of oil or gas; (*projet*)

“spacing unit”. — “spacing unit” means an area, other than a production spacing unit, designated by the appropriate provincial authority for the drilling for or production of oil or gas; (*unité d’espacement*)

“unit”. — “unit” means that part of a pool or pools that is within the area to which a unit operation applies; (*unité*)

“unit operation”. — “unit operation” means the operation in accordance with a scheme or plan for combining the interest of all owners in a common source of supply of oil or gas in any field or pool or part thereof so that

- (a) the operation may be conducted as if there were only one operator and one tract, and
- (b) the cost of the operation and the oil or gas produced thereby to a formula or a schedule of participation. (*exploitation collective*)

(2) For the purposes of these Regulations, “township”, “section”, “quarter-section” and “legal subdivision” have the same meanings as in the *Canada Lands Surveys Act*.

Application

3. These Regulations apply to Indian lands as defined in the Act.

General Terms and Conditions

4. It is a term and condition of every lease, permit, licence or other disposition issued or made under these Regulations and of every grant, lease, permit, licence or other disposition that is deemed to be subject to these Regulations by section 6 of the Act that the operator will comply with

- (a) the applicable provisions of the *Indian Act* and all applicable orders and regulations made thereunder;
- (b) the terms and conditions specified in the grant, lease, permit, licence or other disposition;
- (c) these Regulations and all directions made hereunder in so far as they are applicable to the grant, lease, permit, licence, or other disposition; and
- (d) unless otherwise directed by the Minister in writing, the applicable laws of the province in which a contract area is situated and with any orders or regulations made from time to time thereunder relating to the environment and the exploration for, development, treatment, conservation and equitable production of oil and gas.

Exploratory Licence

5. (1) Every person who wishes to conduct exploratory work on Indian lands shall, in a form approved by the Manager, apply to the Manager for an exploratory licence and the application shall contain the following:

- (a) a statement certifying that the applicant has been granted permission in the proper form and by the appropriate authority authorizing him to conduct the exploratory work within the province, where such permission would be required by the law of that province if the exploratory work were conducted on non-Indian lands;
- (b) information as to the nature of the work to be performed by the applicant, the area to be covered, the names of any contractors to be engaged, the equipment to be used, the approximate number of employees and the anticipated duration of the operations; and
- (c) an undertaking by the applicant that he will, if the licence is granted,
 - (i) pay compensation for all damage occasioned by the exploratory work, including surface and crop damage,
 - (ii) where roads or road allowances are damaged as a result of the work, repair and recondition them as soon as possible after the damage occurs,
 - (iii) mark the location and identify each test hold or shot hold drilled under the licence and plug all holes that collapse or emit gas, water or other substances during or subsequent to the exploratory work,
 - (iv) submit to the Manager, within 90 days after the completion of the exploratory work, two copies of a map on a readable scale of not less than 1:50 000, showing the location and ground elevation of each vibrating equipment station, shot hold and test hold together with two copies of a statement containing applicable summaries of geologists' logs and drillers' logs, indicating depths and thicknesses of formations bearing water, sand, gravel, coal and other minerals of possible economic value, and
 - (v) submit to the Manager, within 90 days after the completion of the exploratory work, two copies of a statement containing factual information obtained from the drilling of each test hold such as electric, radioactive and lithologic logs.

(2) On receipt of an application made pursuant to subsection (1), the Manager may, with the approval of the Band Council concerned, approve the application and grant to the applicant an exploratory licence on such terms and conditions as the Manager may specify in the licence.

(3) An exploratory licence is valid only for the period specified therein and is subject to any existing rights granted to a person other than the licensee under a lease, easement right-of-way or other interest in the surface area covered by the licence. SOR/81-340, Sched., s. 1.

Drilling Restrictions

6. A person who is conducting exploratory work and does not hold a permit or lease covering the location to be drilled shall not drill at that location

- (a) to a depth greater than that permitted by the appropriate provincial authority on non-Indian lands; or
- (b) in the absence of such authority, to a depth greater than 150 m unless he is authorized to do so under the terms and conditions specified in the exploratory licence. SOR/81-340, Sched., s. 2.

Method of Disposal

7. (1) Available oil and gas rights in Indian lands may be disposed of by the Manager by a permit or lease granted under such terms and conditions as he considers advisable if prior approval has been obtained from the Band Council concerned in respect of the disposal of the rights and the terms and conditions under which the disposal will be made.

(2) The Manager shall, by public advertisement or by such other method as he considers advisable, call for tenders in respect of each parcel of land for which a permit or lease is to be granted.

(3) A call for tenders shall state the terms and conditions, other than those specified in these Regulations, upon which a lease or permit is to be granted, including rentals, length of term, work obligations, entitlement to leases selected from permits, cash bonus, carried equity interest, joint venture and farm-out or profit interests and shall clearly state the one competitive element that will be considered in evaluating the tenders submitted.

(4) The Manager may, in accordance with a call for tenders under subsection (2),

- (a) accept the highest tender and grant a permit or lease;
- (b) in his discretion, reject all tenders; or
- (c) in respect of a parcel of land for which no tender is received at the closing date specified in the call for tenders, receive and consider, within such further period as may be specified in the call for tenders, any offers on that parcel and thereupon,
 - (i) accept the highest offer and grant a permit or lease, or
 - (ii) in his discretion, reject all the offers.

(5) Notwithstanding subsection (2), the Manager may, in consultation with the Band Council concerned and without calling for tenders, negotiate a permit or lease to dispose of available oil and gas in Indian lands, and, subject to the approval of the Band Council concerned, grant a permit or lease upon such terms and conditions as are specified therein.

Rights of a Permittee

8. (1) Subject to subsection (2), a permittee has

- (a) the right to do exploratory work and to drill for oil and gas within the boundaries of his permit area if he has obtained an exploratory licence and the surface rights in respect of that area; and

(b) the exclusive right to select a lease or leases in accordance with section 16 upon relinquishment of his permit area or appropriate portion thereof.

(2) A permit shall not be construed as prohibiting a person other than the permittee from doing exploratory work under an exploratory licence that does not interfere with the operations of the permittee.

Prosecution of Exploratory Work

9. (1) Every permittee shall, within 90 days after the effective date of his permit, prepare and submit to the Manager a plan showing in detail the nature of the proposed exploratory work to be carried out under the permit.

(2) Upon receipt of a plan submitted pursuant to subsection (1), the Manager shall consider it and forthwith notify the permittee in writing that the plan

(a) is approved as submitted, or

(b) is approved subject to such modifications thereto as are specified in the notice,

and the permittee shall, within the time specified in the notice, commence and carry out to completion the exploratory work in accordance with the plan as approved.

(3) A permittee may at any time apply to the Manager for a change in a plan approved under subsection (1) and the Manager shall consider the change applied for and forthwith notify the permittee in writing that the change

(a) is approved as applied for;

(b) is approved subject to such modifications or conditions as are specified in the notice;

or

(c) is refused.

(4) Where a change in a plan has been approved under subsection (3), the permittee shall carry out to completion the exploratory work in accordance with the plan as so changed and in accordance with such conditions, if any, as are specified in respect of such change.

Permit Term, Extensions and Fees

10. (1) The term of a permit shall be

(a) the term, if any, specified in the call for tenders in respect of which the permit is granted;

(b) the terms specified in the permit, where the permit is granted pursuant to subsection 7(5); or

(c) in any other case, one year.

(2) Prior to the expiry of the term of a permit or extension thereof, the permittee may apply to the Manager for an extension of the term or for a further extension, for all or any part of the permit area and shall in his application

(a) summarize the exploratory work completed;

(b) estimate the costs incurred to the date of the application pertaining to the evaluation of the permit area; and

(c) outline the proposed operations for the extension period specified in the application.

(3) Where, in the opinion of the Manager, a permittee applying for a first extension of a permit under subsection (2) has complied with the requirements of the permit and these Regulations and has outlined an acceptable exploratory program for the extension period specified in the application for the extension, the Manager shall grant a first extension of the permit for a term not exceeding one year.

(4) Where, in the opinion of the Manager, a permittee applying for a second or subsequent extension of a permit under subsection (2) has complied with the requirements of his last extension and these Regulations and has outlined an acceptable exploratory program for the extension period specified in the application for the extension, the Manager may, with the approval of the Band Council concerned, grant a second or subsequent extension of the permit for a term not exceeding one year in respect of each such extension.

(5) Where the terms and conditions in a permit granted pursuant to subsection 7(5) or in the call for tenders in respect of which the permit was granted provide for an extension of the permit, subsections (3) and (4) of this section do not apply to that permit and any extension of the permit shall be in accordance with those terms and conditions.

(6) The Manager shall not grant a permit unless the fee set out in Schedule II in respect of the permit has been paid.

Rental for Permits and Extensions

11. Except as otherwise specified in a call for tenders in respect of which a permit is granted or in a permit granted pursuant to subsection 7(5), the rental for each permit shall be paid in advance and shall be

- (a) for a permit when first granted, \$1.25 per year per hectare of the permit area;
- (b) for a permit that is extended for the first time, \$1.25 per year per hectare of the permit area;
- (c) for a permit that is extended for a second time, \$0.15 per month per hectare of the permit area; and
- (d) for a permit that is extended for a third or subsequent time, \$0.20 per month per hectare of the permit area. SOR/81-340, Sched., s. 3.

Prior Permits

12. (1) In this section, "prior permit" means a permit referred to in section 6 of the Act that is in force on April 22, 1977.

(2) Until a prior permit expires by effluxion of time, surrender or cancellation, whichever first occurs, the rental for the permit shall be the rental payable therefor under the former regulations.

(3) Subject to subsection (4), a prior permit may be extended under subsection 10(3) or 10(4) and upon such extension the permit shall, for the purposes of these Regulations, cease to be a prior permit.

(4) Where the holder of a prior permit issued after July 1, 1976 desires an extension thereof, he shall apply for the extension in the manner provided in subsection 10(2) and the Manager shall, if he is satisfied that the permittee has complied with the requirements of his

permit and these Regulations and has outlined an acceptable exploratory program for the extension period applied for, grant an extension as provided for in the call for tenders under which the prior permit was originally granted.

(5) Notwithstanding sections 18 and 19 but subject to subsection (7), where a prior permit is in force and the permittee is required to apply for a lease by section 13 or elects to select a lease or leases, the application shall be made in accordance with section 16 and that section shall apply for granting a lease but the term of each lease granted shall be ten years at an annual rental fee, payable in advance, of \$2.50 per year per hectare of the lease area.

(6) Notwithstanding sections 18 and 19 but subject to subsection (7), where a prior permit issued after July 1, 1976 is in force and the permittee is required to apply for a lease by section 13 or elects to select a lease or leases, the application shall be made in accordance with section 16 and that section shall apply for granting a lease but the term of the lease and the rental fee therefor shall be as provided for in the call for tenders under which the prior permit was originally granted.

(7) Upon the expiry of the term of a lease granted pursuant to subsection (5) or (6), the lease may thereafter be continued under section 18 as if it were for a five-year term and the five-year term had expired, at the rental prescribed therefor by these Regulations. SOR/81-340, Sched., s. 4.

Discoveries

13. Where oil or gas has been discovered in commercial quantity in a permit area, the permittee shall, in accordance with section 16, apply for a lease or leases of the oil and gas rights in the permit area containing the discovery well,

- (a) before the expiration of 90 days following the discovery, or
- (b) prior to commencing the drilling of any other well in the permit area within 7.25 km of the discovery well,

whichever first occurs. SOR/81-340, Sched., s. 5.

Financial Statement

14. (1) Where a permit is surrendered under section 40 or all or any part of the permit area is converted to a lease or leases under section 16, the permittee shall submit to the Manager, within 90 days after the date of surrender or conversion, an itemized statement, under affidavit and in a form approved by the Manager showing all expenditures respecting the exploratory work conducted under the permit.

(2) The Manager may, in writing, direct a permittee to supply information in addition to the information supplied pursuant to subsection (1) as to the specific purpose for which each expenditure was made and the permittee shall comply with the direction within a reasonable time thereafter.

Reports on Exploratory Work

15. (1) Every permittee shall submit to the Manager, within 90 days after the expiration of a permit or its conversion to a lease or leases, a report in duplicate of the exploratory work,

carried out pursuant to the plan referred to in section 9, or otherwise carried out in the permit area.

(2) Every report submitted under subsection (1) shall conform to the report requirements of the province in which the work is performed and shall include, in addition to the material referred to in subparagraphs 5(1)(c)(iv) and (v), all of the following data obtained by the permittee:

- (a) copies of all aerial photographs taken during the period of exploration;
- (b) a geological report pertaining to the area investigated including stratigraphic data and a geological map on a scale of not less than 1:50 000;
- (c) a geophysical report pertaining to the area investigated including
 - (i) where a gravity survey is conducted, a map on a readable scale of not less than 1:50 000 showing the location and ground elevation of each station, the final corrected gravity value at the station and gravity contours drawn on such value with a contour interval of 2.5 um/s^2 or less,
 - (ii) where a seismic survey is conducted, a map on a readable scale of not less than 1:50 000 showing contours drawn on corrected time value at each shot point (or station, if vibrating equipment is used), for all significant reflecting horizons investigated, with a contour interval of not more than 15 m or the equivalent in time, and
 - (iii) where a magnetic survey is conducted, a map of the area on a readable scale of not less than 1:500 000 showing the location of the flight lines and magnetic contours with a contour interval of not more than 5 nT.

(3) Notwithstanding subsection (2), the Manager may, in writing, authorize a person to include in his report,

- (a) maps at contour intervals and at scales other than those specified in that subsection; and
- (b) information other than that specified in that subsection, if the information authorized to be included is equivalent to the information specified in that subsection.

(4) For the purposes of subparagraph (2)(c)(i), “ um/s^2 ” means one millionth of the average value of the acceleration due to gravity at the earth’s surface. SOR/81-340, Sched., s. 6(1).

Conversion of Permit Area to Lease or Leases by Selection

16. (1) Where a permittee before the expiration of the term of his permit or the last extension thereof, if any, applies to the Manager in a form approved by him, for a lease or leases, the Manager shall, subject to subsection (2), where he is satisfied that their permittee has complied with the terms and conditions of the permit, grant a lease or leases to the permittee the aggregate area or areas of which does not or do not at any time exceed,

- (a) one-half of the original permit area; or
- (b) the proportion of the permit area to which lease entitlement is specified in
 - (i) the call for tenders in respect of which the permit was granted, or
 - (ii) the permit, where the permit was granted pursuant to subsection 7(5).

(2) A lease shall not be granted to an applicant under subsection (1) unless the applicant

pays the first year's lease rental and the lease fee prescribed in Schedule II in respect of each lease selected in the application.

(3) Where a permittee is entitled to select a lease or leases, the aggregate area or areas of which does not or do not at any time exceed one-half of the original permit area,

(a) each lease area granted shall

(i) be in the form of a square or rectangle and have an area of not less than one quarter-section,

(ii) not exceed six sections,

(iii) have a length that is not longer than twice its width, and

(iv) be apart from any other lease area a distance of not less than 1.6 km except where lease areas corner; and

(b) the boundaries of each lease area granted shall conform to the boundaries of

(i) sections, legal subdivisions, lots or aliquot parts of lots according to the subdivisions, or

(ii) projected sections, legal subdivisions, lots or aliquot parts of lots, where the lease is for an unsurveyed area.

(4) Notwithstanding paragraphs (3)(a) and (b), where the overall shape and boundaries of an Indian reserve are such that a lease area selected from a permit thereon

(a) cannot have boundaries that conveniently conform to a township survey or other legal surveys or their projections, or

(b) cannot have an area, shape or location with respect to adjacent leases that conform to the requirements of paragraph (3)(a),

the Manager may, upon application by the permittee, grant a lease area that has an irregular boundary or has other areas, shapes and locations than those specified in subsection (3).

(5) Where a permittee is entitled to select a lease or leases the aggregate area or areas of which exceeds or exceed one-half of the permit area, subsection (3) applies to the lease areas that may be granted but the Manager may grant relief from the lease pattern requirements of that subsection in order to allow the permittee to obtain the lease or leases to which he is entitled.

(6) A permittee who holds contiguous permit areas under two or more permits within one Indian reserve may, with the approval of the Manager, select oil and gas leases from the contiguous permit areas as if those permit areas were one permit area, but the lease area or areas selected from any one permit area shall not exceed the aggregate area entitlement in respect of that permit.

(7) Notwithstanding paragraphs (3)(a) and (b), upon application by a permittee, the Manager may, with the approval of the Band Council concerned, grant a lease with a larger area than that specified in paragraph (3)(a) where a deposit of crude bitumen is identified and the aggregate area selected does not exceed the entitlement referred to in subsection (1). SOR/81-340, Sched., s. 7.

Rights Under Oil and Gas Lease

17. (1) Where a lessee has obtained the necessary exploratory licence and the surface rights in respect of a lease area, he has the right to explore for, drill for, produce, treat and

transport oil and gas within the lease area that is vested in Her Majesty in right of Canada, and to carry on such operations as are necessarily incidental thereto.

(2) Subject to such terms and conditions as the Manager may specify in the lease, a lessee may, if the lease so permits, work through any mineral or any other oil or gas rights within a lease area that are not included in the lease.

(3) Notwithstanding subsection (2), a lease shall not be construed as prohibiting any person having the lawful right to do so from exploring for, working through or producing any mineral or exercising other oil or gas rights within the lease area that are not included in the lease or from doing exploratory work under an exploratory licence that does not interfere with the operations of the lessee.

Term of Lease

18. (1) Except as otherwise specified in section 20 or in a permit in respect of which a lease is obtained or in a lease granted pursuant to subsection 7(5),

- (a) the term of a lease shall be five years; and
- (b) upon expiry of the five-year term, and subject to subsection (4), the lease shall continue for further successive terms of five years as to,

- (i) any part of the lease area that is within

- (A) a production spacing unit,
- (B) a spacing unit,
- (C) a project,
- (D) a production operation area,
- (E) a unit, or
- (F) a pooled area,

containing a well that is designated in writing by the Manager to be capable of producing oil or gas in paying quantity or to be a service well,

- (ii) any part of the lease area that is designated in writing by the Manager to be within the limits of an oil or gas pool,

- (iii) any part of the lease area that contains a well designated by the Manager in writing to be an approved service well, such as wells operated for observation, injection or disposal purposes, or

- (iv) that part of the lease area designated in writing by the Manager as an area that contains a deposit of crude bitumen.

(2) Where, before the expiration of the current term of a lease, the drilling of a well is commenced on a spacing unit comprising the whole or any part of the lease area, the lease shall, subject to subsection (4), continue as to

- (a) the spacing unit containing the well, and
- (b) such additional area of the lease as may be approved by the Manager in writing,

during the period that drilling is being conducted diligently and continuously to the satisfaction of the Manager.

(3) Where the well referred to in subsection (2) is completed as a well designated in writing by the Manager to be capable of producing oil or gas in paying quantity, the lease shall,

subject to subsection (4), continue as to those parts of the lease area referred to in subsection (2) as though the well had been completed and was capable of producing oil or gas in paying quantity before the expiration of the current term of the lease.

(4) Every lessee shall, before the expiration of the current term of his lease, advise the Manager in writing of the part or parts of the lease area that he wishes to have continued, and the Manager shall, by notice in writing, addressed to the lessee, continue the lease as to that part or parts of the lease area that qualify to be continued under this section.

(5) Where a lessee fails to comply with subsection (4), the Manager may, in writing, specify the parts of the lease area to be continued under the lease and the specification, if any, is effective as of the date of the expiration of the current term of the lease.

(6) Where there is a difference of opinion related to interpretation as to whether a lease or part thereof would qualify for continuation under subsection (1), (2) or (3), the Manager shall, when he receives the advice from the lessee under subsection (4), allow a continuation as to the relevant portions of the lease area for such period of time and upon such terms and conditions as he may, in writing, specify in order to allow the lessee to obtain and submit to the Manager, information in support of the continuation required by the lessee.

(7) Upon submission of the information to the Manager within the time specified by him pursuant to subsection (6), he shall consider the information and notify the lessee in writing of his decision.

(8) Where any part of a lease area is no longer continued under this section, the Manager shall amend the description of the lease area not included by the amended description.

(9) Where the Manager amends the description of a lease area pursuant to subsection (8), he shall forward a copy of the amended description to the lessee for attachment to his copy of the lease.

(10) Notwithstanding anything in this section, the Manager may, by agreement with the lessee and with the approval of the Band Council concerned, continue any lease or portion thereof that is not otherwise qualified for continuance under this section, upon such terms and conditions and for such period of time as are specified in the agreement.

Lease Rental

19. (1) Subject to section 20 and except as otherwise provided in a permit in respect of which a lease is obtained or in a lease granted pursuant to subsection 7(5), the rental for a lease shall be \$5 per year per hectare of the lease area but in no case shall the annual rental for a lease be less than \$100, payable in advance. SOR/81-340, Sched., s. 8.

(2) Where the Manager is satisfied that a permittee

(a) has incurred, during the term of a permit or a prior permit described in subsection 12(1), expenditures for exploratory work on or near the permit area for the purpose of assessing the oil and gas potential of the permit area, and

(b) has carried out work in the permit area continuously and diligently,

the Manager shall, at the time of application for a lease or leases pursuant to section 16, grant a credit, to be applied only on the rental due for the first two years under the lease or leases,

for the expenditures so incurred, but the credit shall not exceed 50 per cent of the rental due for each of those two years.

Prior Leases

20. (1) In this section, "prior lease" means a lease referred to in section 6 of the Act, other than a surface lease, that is in force on April 22, 1977.

(2) The rental that was payable for a prior lease before April 22, 1977 shall continue to be the rental payable therefor until the prior lease expires by effluxion of time, surrender or cancellation or until it is continued under subsection (3).

(3) Subject to subsection (4), where a lessee under a prior lease would have been entitled to a renewal of the lease prior to January 1, 1981, the Manager may, subject to the lessee applying for the continuation in accordance with subsection 18(4), continue the lease for one further term of ten years at an annual rental of \$5 per hectare for the entire lease area.

(4) A lease that has been continued under subsection (3), shall, on and after January 1, 1981, be reduced in area as to any portion thereof not qualified for continuance under section 18.

(5) After January 1, 1981, where a lessee under a prior lease would have been entitled to a renewal of the lease pursuant to the authority under which the lease was granted, or where the 10-year term of a lease continued under subsection (3) expires, the lease may, subject to section 18, be continued at an annual rental specified in these Regulations at the time that the lease is continued, as if the term of the lease was five years and the five-year term had expired. SOR/81-340, Sched., s. 9.

Royalties

21. (1) Except as otherwise provided in a special agreement under subsection 5(2) of the Act, the royalty on oil and gas obtained from or attributable to a contract area shall be the royalty computed in accordance with Schedule I, as amended from time to time, and shall be paid to Her Majesty in right of Canada in trust for the Indian band concerned.

(2) Where oil or gas is obtained from or attributable to a contract area, the lessee shall

(a) on or before the 25th day of each month, or

(b) at such time intervals as are specified in the lease governing the area, submit to the Manager a report and financial statement, in such form as the Manager may prescribe or approve, respecting the oil or gas so obtained or attributed during the preceding month or interval, together with the royalty payment due for that month or interval.

(3) Every sale of oil or gas obtained from or attributable to a contract area shall, unless otherwise directed by the Manager in writing, including the oil or gas that is the royalty payable under this section.

(4) Notwithstanding subsection (3), the Manager may at any time, after giving reasonable notice in writing to the lessee and giving due consideration to any obligations that the lessee may have for the sale of oil, gas or any products thereof, take in kind oil or gas, as the case may be, as all or any part of the royalty payable.

(5) Upon application by a lessee and with the approval of the Band Council concerned, the Manager may in writing agree not to take in kind for a specified period all or any part of the royalty payable.

(6) No royalty is payable on oil or gas consumed for drilling, production or processing purposes in or attributable to a contract area.

(7) Where oil or gas that is the royalty payable under these Regulations, as amended from time to time, is sold or to be sold and, in the opinion of the Manager, the sale was or will be at a price that is less than the fair market value of the oil or gas, the Manager shall, by notice in writing addressed to the lessee, specify the dollar value of the oil or gas that would be realized if it were sold in a business-like manner, at the time and place of production in an arm's length transaction; and the lessee shall, in his royalty payment next following the receipt by him of the notice, account for and pay to the Manager the deficiency between the dollar value specified in the notice and the actual dollar value obtained by the lessee on the sale of the oil or gas.

Drilling and Development

22. (1) Where, in the opinion of the Manager, there is drainage of oil or gas from a permit area or lease area, he may in writing, direct the permittee or lessee to commence drilling a well or wells to the zone or formation from which the drainage is occurring, and the permittee or lessee shall, subject to subsection (4), comply with the direction within 90 days after the date thereof or within such longer period of time as is specified therein.

(2) The Manager may, in writing, direct a permittee or lessee to submit to him, in the form and manner specified in the direction, a plan of development of a permit or lease area, and the permittee or lessee shall, subject to subsection (4), comply with the direction within 90 days after the date thereof or within such longer period of time as is specified therein.

(3) Upon receipt of a plan of development submitted pursuant to subsection (2), the Manager shall consider it and forthwith notify the permittee or lessee in writing that the plan of development

(a) is approved as submitted, or

(b) is approved subject to such modifications thereto as are specified in the notice,

and the permittee or lessee shall, subject to subsection (4), within the time specified in the notice, commence and carry out the completion and development of the permit or lease area in accordance with the plan of development as approved or as so modified.

(4) A permittee or lessee is not required to comply with subsection (1), (2) or (3), if, within the time prescribed for doing so in a direction or notice under that subsection, he surrenders that portion of the permit or lease area to which the direction or notice relates.

(5) For the purposes of this section, "development" includes production.

Well Licence

23. Before commencing any drilling operations, an operator shall submit to the Manager one copy of the well licence or other similar document issued by the appropriate provincial authority.

Well Reports

24. (1) Except as is otherwise specified in a permit or lease, every operator engaged in drilling, workover and recompletion operations shall submit a weekly report to the Manager summarizing the operations and describing all significant results obtained therefrom during the week.

(2) Every operator shall make a reasonable attempt to test, in accordance with good oilfield practice, all prospective oil and gas horizons penetrated that yield information from wireline log evidence as to the presence of hydrocarbons in significant quantities and shall endeavour to notify the Manager sufficiently in advance of those tests in order that the Manager or a person authorized by him to act on his behalf, may be present when the tests are being carried out.

(3) Within 60 days after the completion, recompletion or abandonment of a well or of the suspension of operations of a well for a period of six months, the operator shall submit to the Manager a copy of all information normally submitted to the appropriate provincial authority, including the results of all drillstem tests, core analyses and fluid analyses, together with all wireline logs run at the well site and other diagnostic data.

(4) The Manager may, in writing, direct an operator to supply detailed information, in addition to the information supplied pursuant to subsection (3), that is relevant to the operation and the operator shall comply with the direction within a reasonable time thereafter.

Plans

25. Every operator shall, when directed in writing to do so by the Manager, submit to the Manager plans and diagrams on such scale as is prescribed in the direction, showing plant or other facilities used in the development, production, treatment, transportation or other operations incidental to the exploitation of oil and gas.

Notice of Discovery or Abandonment

26. (1) When oil or gas is discovered in significant quantities during drilling or other operations in a permit or lease area, the operator shall forthwith notify the Manager of the discovery.

(2) A well that has been cased and from which the original drilling rig has been removed shall not be abandoned by the operator thereof unless he has first notified the Manager and the Manager has in writing approved the abandonment.

Crude Bitumen

27. (1) Notwithstanding anything in these Regulations, a contract holder shall not commence production of crude bitumen unless he is authorized to do so under a lease and has entered into a special agreement pursuant to subsection 5(2) of the Act, but for the purposes of this subsection, "production" does not include the extraction of substances under a pilot testing operation.

(2) Where a deposit of crude bitumen is identified in a permit area or lease area, the

permittee or lessee may make an application to the Manager for an amendment to his permit or lease.

(3) An application for an amendment to a permit or lease under subsection (2) may include, but is not restricted to, amendments respecting

- (a) the term of the permit or lease;
- (b) the rental payable under the permit or lease;
- (c) the royalty on crude bitumen or its constituents or basis of calculation of the royalty by agreement in accordance with subsection 5(2) of the Act;
- (d) a variation of the permit or lease area; and
- (e) a restriction to specified geological strata.

(4) The Manager may, subject to these Regulations and with the approval of the Band Council concerned, amend the permit or lease to accord with the application and the special agreement entered into between the Minister and the permittee or lessee under subsection 5(2) of the Act.

Surface Rights

28. (1) Every person who requires surface rights on Indian lands incidental to the exploitation of oil or gas, other than as provided for in section 5, shall, before using the surface or exercising any rights relating thereto, complete in a form approved by the Manager, an application for a surface contract for the rights so required.

(2) Notwithstanding subsection (1), with the permission of the Band Council concerned and the person in lawful possession of the land in respect of which surface rights are required, a person may enter upon that land for the purpose of site testing, locating proposed facilities or surveying or for any other purpose necessary for the completion of his application under subsection (1).

(3) A person making an application under subsection (1) shall

(a) deliver to the Band Council concerned, the Manager, the person in lawful possession and the district office of the Department, a copy of the application and a paper print of the survey plan prepared in accordance with section 32;

(b) negotiate with the Band Council concerned and the person in lawful possession, the consideration to be paid to compensate for damage, severance, inconvenience, disturbance and rental, if applicable, and any special conditions required by the applicant, Band Council concerned or person in lawful possession; and

(c) upon approval of the application by the Band Council concerned and the person in lawful possession, deliver to the Manager

- (i) the consideration payable for the surface rights,
- (ii) four copies of the application indicating the approval by the applicant, the Band Council concerned and the person in lawful possession, and
- (iii) a sensitized polyester base film copy and six paper prints of the survey plan prepared in accordance with section 32.

(4) Upon receipt of the material referred to in paragraph (3)(c), the Manager shall, if he is satisfied that the material is complete, that the applicant requires the surface rights contract in order to carry out his rights under a permit or lease, and that the surface rights contract would

not be detrimental to the interests of the Band concerned, grant the surface rights contract to the applicant in such form as the Manager may approve.

(5) The term of a surface rights contract shall be for such period or periods of time as are, in the opinion of the Manager, necessary to allow for the extraction, transportation and treatment of the oil or gas for which the surface rights are required.

29. (1) Where, pursuant to the negotiations referred to in paragraph 28(3)(b) an agreement cannot be reached, the applicant for the contract may make an application in writing to the Minister to have the terms of the agreement determined in accordance with subsections (3) and (4).

(2) For the purposes of subsection (1), where the Band Council concerned or the person in lawful possession does not, within 45 days after the receipt of the application pursuant to paragraph 28(3)(a), reply in writing to the applicant, the Band Council concerned or the person in lawful possession, as the case may be, shall be deemed to have not approved the application.

(3) Upon receipt of an application pursuant to subsection (1), the Minister shall determine the terms of the contract or make an order providing for the determination thereof by arbitration or otherwise, as he may deem advisable.

(4) The determination by the Minister or by the procedure set out in an order made pursuant to subsection (3) shall state the contract terms and may provide for periodic reviews of the terms and for the method for settling the reviewed terms.

Prior Surface Agreements

30. (1) In this section, "prior lease" means a lease or agreement respecting surface rights incidental to the exploitation of oil or gas, that was issued or the term of which was extended under the former regulations and that is in force on April 22, 1977 and includes an Order in Council that grants surface rights incidental to the exploitation of oil and gas on Indian lands and that is in force on April 22, 1977.

(2) Subject to subsection (3), a prior lease continues during the term specified therein so long as the rights granted thereby are required for purposes incidental to the exploitation of oil or gas.

(3) The consideration payable under a prior lease shall, commencing on April 22, 1977, be sufficient to compensate for damage, severance, inconvenience, disturbance and rental, if applicable.

(4) Where the Manager is not satisfied that the consideration payable under a prior lease is sufficient as described in subsection (3), he may, in writing, direct the holder of the prior lease to make an application to the Manager to have the prior lease amended to specify a consideration that is sufficient.

(5) Upon receipt of a direction under subsection (4), the holder of the prior lease shall forthwith make an application to the Manager in a form approved by him and, where the holder of the prior lease, the Manager, the Band Council concerned and the person in lawful possession of the area affected by the prior lease, agree as to the amount of the sufficient consideration, the Manager shall amend the prior lease to specify that consideration.

(6) Where an agreement referred to in subsection (5) cannot be reached within 45 days

after the date of receipt by the Manager of the application referred to in that subsection, the holder of the prior lease shall make an application to the Minister to have the amount of the consideration determined in accordance with subsections 29(3) and (4), and those subsections thereafter apply, with such modifications as the circumstances require, for the purpose of having the amount so determined.

Right of Entry

31. (1) Notwithstanding anything in these Regulations, where an applicant for surface rights has sent an application to the persons referred to in subsection 28(3), the Manager may, subject to the payment by the applicant to the Manager of such security amount as the Manager may specify, grant to the applicant a right of entry, user or taking of the surface of the land, in such form, for such time, by such manner and upon such terms and conditions as the Manager may in writing specify.

(2) The security amount received by the Manager under subsection (1) shall be used for the payment of such sums as are agreed upon pursuant to section 28 or determined pursuant to section 29 or for the payment of such sums as the Manager deems reasonable for the use of the land prior to an agreement pursuant to section 28 or a determination pursuant to section 29.

(3) The Manager may, on behalf of an applicant, pay the whole or any part of the security amount received by him to any person to whom the compensation is payable and shall return any excess to the applicant.

Survey Plans

32. (1) The survey plan referred to in paragraph 28(3)(a) shall

- (a) conform with the general instructions of the Surveyor General of Canada for such surveys; and
- (b) be subject to review by the Surveyor General and be recorded in the Canada Lands Surveys Records.

(2) Where any conflict or dispute arises as to the location or position of a well, facility or boundary under a contract, the Manager may in writing direct the contract holder concerned to cause an official survey to be made under instructions of the Surveyor General in accordance with the *Canada Lands Surveys Act* and the contract holder concerned shall forthwith comply with such direction.

Pooling

33. (1) A permittee or lessee may, with the approval in writing of the Manager, pool his permit or lease area or any portion thereof, or any one or more geological strata underlying the permit or lease area, with any other interests in oil or gas rights whether or not such oil or gas rights are governed by these Regulations, but the combined area so pooled shall not exceed one spacing unit.

(2) The royalty prescribed by these Regulations shall be paid on that portion of the production of the well that is in the same proportion of the production of the well as the area of the lands in the lease area that are included in the pooled area are of the total area pooled,

unless it is deemed by the appropriate provincial authority that the acreage basis is inequitable and some other basis is used in a compulsory pooling agreement, in which case the basis set out in the compulsory agreement shall be used.

(3) A lessee shall pay the royalty referred to in subsection (2), at a rate based on the total production of the well, except where the pooled area is included in a production spacing unit, in which case the basis for the calculation of royalties shall be as agreed upon under a special agreement under subsection 5(2) of the Act.

Unit and Project Operations

34. (1) The Manager may, upon such terms and conditions as he may deem advisable and with the approval of the Band Council concerned, in writing authorize a lease area or lease areas or any portion thereof to be included in any unit or project established for the development of any field, pool, pools, or portion thereof.

(2) The portion of the production from a unit or project that is allocated to the lands comprised in a lease area or portion thereof included therein pursuant to subsection (1) shall for all purposes be considered to be actually produced therefrom and, subject to section 18, the unit or project operation shall be deemed to be an operation for the production of oil or gas from the lands comprised in the lease area in fulfilment of all obligations of the lessee in respect of such of those lands as are comprised in the field, pool, pools or portion thereof subject to the operation.

(3) An authorization under subsection (1) entitles the lessee to carry out such activities in any unit or project, as are consistent with the effective operation of the unit or project, including but not restricted to, measures designed to enhance recovery such as flooding, cycling and injection of water or other substances.

Transitional Unit, Project and Pooling Agreements

35. Every agreement authorizing pooling, projects, units or unit operations entered into under the former regulations and in force on April 22, 1977 shall continue as to its terms and conditions except as regards royalties.

Authority to Alter Leases

36. The Manager may, upon application by a lessee and with the consent of the Band Council concerned, divide, consolidate or reissue any lease or leases to the extent necessary to carry out the purposes of these Regulations.

Grouping of Leases and Permits

37. (1) For the purpose of complying with the provisions of these Regulations or anything done or required to be done hereunder, a lessee or a permittee may apply to the Manager for permission to group two or more lease areas or permit areas and the Manager may, in writing, approve the grouping for such purposes and for such periods of time as he may specify in the approval.

(2) Compliance with the exploration, drilling and development requirements of these

Regulations in any lease area or permit area within the group shall, for the purposes of these Regulations, satisfy those requirements for which the group was established for all of the leases or permits in the group, so long as the group remains in effect.

(3) The Manager may, in writing addressed to the persons affected, terminate a group when the purpose of the group has been fulfilled or upon the occurrence of such other event as is specified by the Manager in the approval.

Assignments

38. (1) Assignments of any contract rights pursuant to section 54 of the *Indian Act* shall be in a form approved by the Manager.

(2) The Manager may, in his discretion, refuse to approve an assignment of contract rights

- (a) that is conditional;
- (b) that would result in more than five persons having interests in a contract;
- (c) that purports to assign less than an undivided five per cent interest in the contract;
- (c) that purports to assign less than an undivided five per cent interest in the contract;
- (d) where any party to the assignment has been notified that he is indebted for royalty or is otherwise in default under any contract held by him and has not commenced and diligently continued to remedy the default;
- (e) where the assignment is not executed by the assignor and the assignee in such manner and accompanied by such proof of execution as is satisfactory to the Manager; or
- (f) where the prescribed fee therefor is not paid.

Joint and Several Obligations

39. For the purposes of these Regulations, where two or more persons are named as the contract holder as to certain undivided interests in the contract or portion thereof, their duties and obligations shall be construed as being joint and several.

Surrender of a Contract

40. (1) A contract holder who is not in default under the contract, these Regulations or a direction made under these Regulations may at any time, by notice in writing sent to the Manager, surrender,

- (a) subject to subsection (3), a permit area or a lease area or any part thereof; or
- (b) with the approval in writing of the Manager, a contract respecting surface rights or any part of the area covered by such contract.

(2) A notice to the Manager under subsection (1) shall be in such form as the Manager may in writing approve and the approval of a surrender referred to in paragraph (1)(b) may be conditional on such terms as the Manager specifies in the approval.

(3) Where a part of a permit area or a lease area is surrendered, the remainder shall have such boundaries as are acceptable to the Manager.

(4) Where a part of a contract area is surrendered, the Manager shall amend the description

of the contract area accordingly and send a copy of the amendment to the contract holder to be annexed to and form part of his copy of the contract.

(5) Upon surrender of a contract or portion thereof, the contract holder shall not be refunded any portion of the rental that may have been paid in advance.

(6) Where a part of a contract area is surrendered, the annual rental or other consideration for the remainder of the contract area shall not be less than \$100.

Review by Minister

41. Any person who is dissatisfied with a decision or direction of the Manager or with any other action taken or omitted to be taken by the Manager under these Regulations may, within 60 days after the decision or direction or the taking or omitting to take the action, apply to the Minister in writing for a review of the Manager's decision, direction, action or omission and the Minister shall review the matter and advise the applicant in writing of his final decision in the matter.

Inspection

42. (1) The Manager may, at any reasonable time,

- (a) inspect the wells, plant, equipment and other operations of an operator;
- (b) examine the records of an operator at the operation location and at the office of the operator; and
- (c) attend at the drilling, testing and completion of any well.

(2) The information obtained under subsection (1) shall be kept confidential in accordance with section 43, except where disclosure is necessary to ensure compliance with a contract or these Regulations.

Confidential Reports and Information

43. (1) The information contained in a report that is submitted pursuant to these Regulations by or on behalf of a contract holder shall be kept confidential until the expiry of a period of time in keeping with the practice of the province in which the work is performed, except where

- (a) the contract holder has surrendered his rights in the contract or any part thereof covered by the report or the contract has been terminated or has expired; or
- (b) the person submitting the report is not submitting it on behalf of a contract holder for the area covered by the report.

(2) Information in reports that, pursuant to paragraph (1)(a), may be released shall not be released until the expiration of one year after the date of the surrender, termination, expiration or the completion of the contract, as the case may be.

(3) Notwithstanding subsections (1) and (2), where the person submitting a report consents thereto, the information contained therein may be released at an earlier date in accordance with such consent.

Payment of Taxes

44. A contract holder shall pay and discharge all rates, assessments and taxes charged upon the contract area, the contract holder, occupier, operator or agent in respect of the contract or contract area as a result of operations in the contract area.

Employment

45. To the extent that it is practicable and consistent with reasonable efficiency, safety and economy, every person conducting exploratory work, drilling or production operations under these Regulations shall give employment to persons resident on the Indian lands within which the operations are conducted.

Rental Obligation

46. Where a lessee has not paid the rental due on a lease and has not surrendered the lease in accordance with section 40 within 30 days after the rental became due, the lease is subject to cancellation in accordance with section 47.

Cancellation

47. (1) Where, in the opinion of the Manager, a contract holder has failed to comply with his contract or these Regulations, the Manager may send a notice to the contract holder requiring him to commence to remedy the failure.

(2) Where the contract holder has not commenced to remedy the failure within 30 days from the date of receipt of the notice under subsection (1) or, having commenced to remedy the failure within that period, fails, in the opinion of the Manager, to continue diligently to remedy the failure, the contract is subject to cancellation at the discretion of the Manager.

(3) Where the Manager cancels a contract, he shall send a notice in writing to the contract holder advising him of the cancellation.

Payment of Fees

48. The fee that shall be paid for a service described in Column I of an item of Schedule II shall be that set out in Column II of that item.

Suspension of Operation

49. (1) Where in the opinion of the Manager, an operation conducted under these Regulations is causing or may cause danger to persons or property or is causing or may cause waste or an undue degree of disturbance or damage to a reservoir, the surface or the environment or in the opinion of the Manager an emergency exists, he may in writing direct the operator to suspend any operations or direct him to take such remedial measures as the Manager deems necessary.

(2) Every operator shall comply with a direction issued to him pursuant to subsection (1).

Service of Documents

50. Any decision, direction, notice or other document required or authorized to be sent under these Regulations may be personally served on or delivered to the addressee or shall be sent by registered mail to the addressee at his latest known address.

Extension of Time

51. (1) Where anything is required to be done by a person within a time fixed by or under these Regulations and it cannot be or is not done within that time, the Manager may, where he is satisfied that the delay was *bona fide* and that it would not prejudice any other person to allow an extension of the time for doing that thing, extend the time or specify a later date on or before which the thing may be validly done by the person.

(2) Anything done by a person within the extended time or on or before the later date specified by the Manager under subsection (1) is, subject to any intervening rights *bona fide* acquired under these Regulations by another person, as valid as if it were done within the time originally fixed by or under these Regulations.

SCHEDULE I

(s. 21)

ROYALTIES*Oil Royalty*

1. (1) The royalty to be computed, levied and collected on oil obtained from or attributable to a contract area shall comprise the basic royalty, being the number of cubic metres determined in accordance with paragraph (a) or (b), whichever is applicable, plus the supplementary royalty determined in accordance with subsection (2), all quantities or amounts to be calculated at the time and place of production free and clear of any deductions whatever:

(a) during the period from the date determined by the Manager to be the date of commencement of production of oil from a contract area until five years thereafter, the basic royalty shall be that part of the oil obtained from or attributable to each well during each calendar month of the five-year period, in accordance with the following table:

TABLE

Item	Monthly Production in cubic metres	Royalty per Month
1.	0 to 80	10% of the number of cubic metres
2.	Over 80 but not over 160	8 m ³ plus 20% of the number of cubic metres in excess of 80
3.	Over 160	24 m ³ plus 26% of the number of cubic metres in excess of 160

(b) immediately after the period referred to in paragraph (a), the basic royalty shall be that part of the oil obtained from or attributable to each well in a contract area during each calendar month thereafter, in accordance with the following table:

TABLE

Item	Monthly Production in cubic metres	Royalty per Month
1.	0 to 80	10% of the number of cubic metres
2.	Over 80 but not over 160	8 m ³ plus 20% of the number of cubic metres in excess of 80
3.	Over 160 but not over 795	24 m ³ plus 26% of the number of cubic metres in excess of 160
4.	Over 795	189 m ³ plus 40% of the number of cubic metres in excess of 795

(2) The supplementary royalty referred to in subsection (1) shall be determined:

(a) in respect of oil to which paragraph (1)(a) applies, by using the following formula:

$$S = (T - B) 0.50 (P - R);$$

(b) in respect of oil to which paragraph (1)(b) applies, by using the following formula:

$$S = (T - B) [0.75(P - R - \$12.58) + \$6.29].$$

(3) For the purposes of subsection (2),

“S” is the supplementary royalty in dollars;

“T” is the total oil in cubic metres obtained from or attributable to each well in a contract area during each calendar month;

“B” is the basic royalty oil in cubic metres computed under subsection (1);

“P” is the actual selling price per cubic metre or the price specified pursuant to subsection 21(7) of these Regulations, whichever is greater;

“R” is the reference price, stated in dollars per cubic metre

(a) for oil obtained from those pools or producing entities, which were producing prior to January 1, 1974, listed in the following Table; and

(b) for all other oil production, \$25 per cubic metre.

TABLE

Item	Reserve	Producing Entity	“R” Reference Price per Cubic Metre
1.	Amber River Reserve No. 211	Indian Integrated Scheme No. 7	\$ 20.49
2.	Pigeon Lake Reserve No. 138A	Cardium Leduc	24.04 25.37

Sched. I

INDIAN OIL AND GAS REGULATIONS

3.	Sawridge Indian Reserve No. 150G	Gilwood Sand	25.13
4.	Stony Plain Indian Reserve No. 35	Lower Cretaceous Acheson Leduc Yekau Lake Leduc	24.64 24.45 25.01
5.	Sturgeon Lake Indian Reserve No. 154		
6.	Utikoomak Indian Reserve No. 155A	Gilwood Sand Unit No. 1 West Nipisi Unit No. 1	25.00 24.58
7.	White Bear Indian Reserve No. 70	3-27-9-2 W2 well 10-2-10-2 W2 well 8-9-10-2 W2 well	20.17 22.40 22.63
8.	Blackfoot Indian Reserve No. 146	6-25-20-21 W4 well	18.19
9.	Ermineskin Indian Reserve No. 138	6-11-45-25 W4 well	19.18

SOR/81-340, Sched., s. 10.

Gas Royalty

2. (1) For the purposes of this section, “ 10^3 m^3 ” means one thousand cubic metres of gas, marketable gas or any other product measured in gaseous form at standard conditions of 101.325 kPa and 15°C .

(2) The royalty to be computed, levied and collected on gas obtained from or attributable to a contract area shall comprise the basic royalty of 25 per cent of the gas applicable supplementary royalty determined in accordance with subsection (3), all quantities to be calculated at the time and place of production free and clear of any deduction whatever except as provided under subsection (4).

(3) The supplementary royalty on gas referred to in subsection (2) shall be individually determined for each of the component gas products, including marketable gas, pentanes plus and sulphur, by multiplying 75 per cent of the applicable component gas product obtained from or attributable to the contract area, by the unit value determined as follows:

(a) on marketable gas, per 10^3 m^3 , the unit value shall be

(i) where the actual selling price exceeds $\$10.65/10^3 \text{ m}^3$, but does not exceed $\$24.85/10^3 \text{ m}^3$, 30 per cent of the difference between the actual selling price per 10^3 m^3 and $\$10.65/10^3 \text{ m}^3$, and

(ii) where the actual selling price per 10^3 m^3 exceeds $\$24.85/10^3 \text{ m}^3$, $\$4.26$ plus 55 per cent of that portion in excess of $\$24.85/10^3 \text{ m}^3$;

(b) on pentanes plus, where the actual selling price exceeds $\$27.68$ per cubic metre, the unit value shall be 50 per cent of that portion of the actual selling price in excess of $\$27.68$ per cubic metre;

(c) on sulphur, where the actual selling price exceeds $\$39.37$ per tonne, the unit value shall be 50 per cent of that portion of the selling price in excess of $\$39.37$ per tonne;

(d) on other products from the same source of gas as the marketable gas, the unit value shall be calculated by multiplying the actual selling price of each of the other products by that percentage by which the overall royalty rate for marketable gas, taking both basic and supplementary royalty into account, exceeds 25 per cent; and

(e) on other products from a source that does not produce marketable gas, the unit value shall be the lesser of one-third the actual selling price of that product or the amount determined by special agreement under subsection 5(2) of the Act.

(4) Where gas is processed by a method other than gravity, the royalty on the gas obtained therefrom shall be calculated on the actual selling price of that gas, but such costs of processing as the Manager may from time to time consider fair and reasonable, calculated on the total of the basic and the supplementary royalty portion of production, shall be allowed.

(5) For the purposes of this section, "actual selling price" means the price at which gas is sold or the price specified pursuant to subsection 21(7) of these Regulations, whichever is greater. SOR/81-340, Sched., s. 11.

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(ss. 10, 16 and 48)

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CREE-NASKAPI (OF QUEBEC) ACT

S.C. 1984, c. 18

An Act respecting certain provisions of the James Bay and Northern Quebec Agreement and the Northeastern Quebec Agreement relating principally to Cree and Naskapi local government and to the land regime governing Category IA and Category IA-N land

Preamble. — WHEREAS the Government of Canada is obligated, pursuant to section 9 of the James Bay and Northern Quebec Agreement and section 7 of the Northeastern Quebec Agreement, to recommend to Parliament special legislation to provide for an orderly and efficient system of Cree and Naskapi local government, for the administration, management and control of Category IA and Category IA-N land by the Cree and Naskapi bands respectively, and for the protection of certain individual and collective rights under the said Agreements;

AND WHEREAS this Act is not intended to preclude the James Bay Crees and the Naskapis of Quebec from benefitting from future legislative or other measures respecting Indian government in Canada that are not incompatible with the said Agreements;

NOW, THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

1. Short title. — This Act may be cited as the *Cree Naskapi (of Quebec) Act*.

INTERPRETATION

2. (1) Definitions. — In this Act,

“**Agreements**”. — “Agreements” means the James Bay and Northern Quebec Agreement and the Northeastern Quebec Agreement;

“**band**”. — “band” means a band incorporated by section 12 or 14;

“**building**”. — “building” includes a permanent structure of any kind and also includes a mobile home;

“**Canada**”. — “Canada” means Her Majesty in right of Canada;

“**Category IA land**”. — “Category IA land” means

(a) until the transfer to Canada by Quebec by final deed referred to in paragraph (b), the land referred to in sections 4 and 5 of the James Bay and Northern Quebec Agreement of which the administration, management and control was transferred to Canada by Quebec by temporary deed by Quebec Order in Council No. 1851-79 of June 27, 1979, pursuant to section 21 of *An Act respecting the land regime in the James Bay and New Quebec*

territories (Quebec), and accepted by Canada by Canada Order in Council P.C. 1979-2178 of August 16, 1979,

(b) after the transfer to Canada by Quebec by final deed pursuant to sections 4 and 5 of the James Bay and Northern Quebec Agreement and section 22 of *An Act respecting the land regime in the James Bay and New Quebec territories* (Quebec), the land described in such final deed,

(c) any land set aside as Category IA land pursuant to paragraph 125(1)(d) of this Act, and

(d) any other land set aside by the Governor in Council as Category IA land for the exclusive use and benefit of a Cree band,

and, in relation to any particular Cree band, means

(e) land described in paragraph (b), (c) or (d) set aside for the exclusive use and benefit of that band, or

(f) land described in paragraph (a) set aside for the exclusive use and benefit of that band's predecessor *Indian Act* band;

“Category IA-N land”. — “Category IA-N land” means

(a) until the transfer to Canada by Quebec by final deed referred to in paragraph (b), the land referred to in sections 4.4 and 5 of the Northeastern Quebec Agreement of which the administration, management and control was transferred to Canada by Quebec by temporary deed by Quebec Order in Council No. 394-81 of February 12, 1981, pursuant to sections 191-3 and 191-5 of *An Act respecting the land regime in the James Bay and New Quebec territories* (Quebec) for the exclusive use and benefit of the *Indian Act* Naskapis de Schefferville band, and accepted by Canada by Canada Order in Council P.C. 1981-809 of March 26, 1981,

(b) after the transfer to Canada by Quebec by final deed for the exclusive use and benefit of the Naskapi band pursuant to sections 4.4 and 5 of the Northeastern Quebec Agreement and section 191-6 of *An Act respecting the land regime in the James Bay and New Quebec territories* (Quebec), the land described in such final deed,

(c) any land set aside as Category IA-N land pursuant to paragraph 125(1)(d) of this Act for the exclusive use and benefit of the Naskapi band, and

(d) any other land set aside by the Governor in Council as Category IA-N land for the exclusive use and benefit of the Naskapi band;

“Category II land”. — “Category II land” means the land established and allocated as Category II land pursuant to the James Bay and Northern Quebec Agreement and *An Act respecting the land regime in the James Bay and New Quebec territories* (Quebec);

“Category II-N land”. — “Category II-N land” means the land established and allocated as Category II-N land pursuant to the Northeastern Quebec Agreement and *An Act respecting the land regime in the James Bay and New Quebec territories* (Quebec);

“Category III land”. — “Category III land” means the land established as Category III land pursuant to the James Bay and Northern Quebec Agreement and *An Act respecting the land regime in the James Bay and New Quebec territories* (Quebec);

“chief”. — “chief”, in relation to a band, means the person holding the office of chief of that band pursuant to Part II;

“council”. — “council” means the continuing body of persons described in section 25;

“council member”. — “council member”, in relation to a band, means the chief or a councillor of that band;

“councillor”. — “councillor” means a person holding office as councillor of a band pursuant to Part II;

“Cree band”. — “Cree band” means a band incorporated by section 12;

“Cree beneficiary”. — “Cree beneficiary” means a person who is enrolled or entitled to be enrolled as a Cree beneficiary pursuant to section 3 of the James Bay and Northern Quebec Agreement;

“Cree Regional Authority”. — “Cree Regional Authority” means the Cree Regional Authority established by *An Act respecting the Cree Regional Authority* (Quebec);

“elector”. — “elector” means a member of a band who is eighteen years of age or over and not declared mentally incompetent under the laws of the Province;

“Inuk of Fort George” or “Inuit of Fort George”. — “Inuk of Fort George” or “Inuit of Fort George” (in the singular) or “Inuit of Fort George” (in the plural) means a person who

(a) is enrolled or entitled to be enrolled on the official list for the Inuit community of Fort George published by the Enrollment Commission pursuant to section 3 of the James Bay and Northern Quebec Agreement,

(b) is a legitimate or an illegitimate descendant of a person described in paragraph (a),

(c) is an adopted child of a person described in paragraph (a) or (b),

(d) is married to a person described in paragraph (a), (b) or (c), where the marriage was solemnized in accordance with, or is recognized under, the laws of the Province, or

(e) has,

(i) between January 31, 1978 and the coming into force of this section, with the written consent of the *Indian Act* Fort George Band, or

(ii) after the coming into force of this section, with the written consent of the Chisasibi Band,

become affiliated with the Inuit community of Fort George pursuant to subparagraph 3.5.5f) of the James Bay and Northern Quebec Agreement;

“James Bay and Northern Quebec Agreement”. — “James Bay and Northern Quebec Agreement” means the agreement between the Grand Council of the Crees (of Quebec), the Northern Quebec Inuit Association, the Government of Quebec, la Société d’énergie de la Baie James, la Société de développement de la Baie James, la Commission hydro-électrique de Québec and the Government of Canada, dated November 11, 1975, as amended by

(a) any agreement not described in paragraph (b) or (c) made in accordance with the applicable amending provisions of the James Bay and Northern Quebec Agreement,

(b) the agreement between those parties dated December 12, 1975, tabled in the House of Commons by the Minister on July 13, 1976 and recorded as part of document number 301-5/180C, and

(c) any other agreement, whether made before or after the coming into force of this section, referred to in

- (i) paragraph 4(1)(a) of the *James Bay and Northern Quebec Native Claims Settlement Act*, or
- (ii) section 3 of *An Act approving the Agreement concerning James Bay and Northern Quebec* (Quebec);

“Matimekosh Reserve”. — “Matimekosh Reserve” means the area of land described in Quebec Order in Council No. 2718 of August 21, 1968;

“member”. — “member”, in relation to a band, means a member of a band as provided in

- (a) section 17, in the case of a Cree band, or
- (b) section 20, in the case of the Naskapi band;

“Minister”. — “Minister” means the Minister of Indian Affairs and Northern Development;

“Naskapi band”. — “Naskapi band” means the band incorporated by section 14;

“Naskapi beneficiary”. — “Naskapi beneficiary” means a person who is enrolled or entitled to be enrolled as a Naskapi beneficiary pursuant to section 3 of the *Northeastern Quebec Agreement*;

“Naskapi Development Corporation”. — “Naskapi Development Corporation” means the Naskapi Development Corporation established by *An Act to establish the Naskapi Development Corporation* (Quebec);

“Northeastern Quebec Agreement”. — “Northeastern Quebec Agreement” means the agreement between the *Indian Act* Naskapis de Schefferville band, the Government of Quebec, La Société d’énergie de la Baie James, La Société de développement de la Baie James, La Commission hydroélectrique de Québec, the Grand Council of the Crees (of Quebec), the Northern Quebec Inuit Association and the Government of Canada, dated January 31, 1978 and referred to in Canada Order in Council P.C. 1978-502 of February 23, 1978, as amended by

- (a) any agreement not described in paragraph (b) made in accordance with the applicable amending provisions of the *Northeastern Quebec Agreement*, and
- (b) any other agreement, whether made before or after the coming into force of this section, referred to in section 3 of *An Act approving the Northeastern Quebec Agreement* (Quebec);

“ordinary band”. — “ordinary band” means any band meeting other than a special band meeting;

“prescribed”. — “prescribed” means prescribed by regulation;

“Province”. — “Province” means the Province of Quebec;

“Quebec”. — “Quebec” means Her Majesty in right of Quebec;

“referendum”. — “referendum” means a referendum of a band referred to in sections 83 to 88;

“special band meeting”. — “special band meeting” means a band meeting referred to in sections 83 to 88.

(2) **“Indian Act” band.** — A reference in this Act to an “*Indian Act*” band is a reference to a “band” within the meaning of the *Indian Act*.

(3) **References to “natural resources” and “land”.** — The reference to “natural resources” in certain provisions of this Act is for emphasis only and shall not be construed as affecting in any way the meaning of the word “land” as including natural resources in those provisions or in any other provision of this Act or the regulations.

(4) **References to Quebec statutes.** — Unless otherwise indicated in this Act, a reference to an Act of the legislature of Quebec or to a provision thereof is a reference to that Act or provision as amended from time to time.

INCONSISTENCY WITH FEDERAL OR PROVINCIAL LAW

3. (1) **Federal Acts.** — Subject to subsection (2), where there is any inconsistency or conflict between the provisions of this Act and any other Act of Parliament, this Act shall prevail to the extent of the inconsistency or conflict.

(2) **James Bay and Northern Quebec Native Claims Settlement Act.** — Where there is any inconsistency or conflict between the provisions of this Act and the *James Bay and Northern Quebec Native Claims Settlement Act*, the *James Bay and Northern Quebec Native Claims Settlement Act* shall prevail to the extent of the inconsistency or conflict.

4. **Provincial laws of general application.** — Provincial laws of general application do not apply to the extent that they are inconsistent or in conflict with this Act or a regulation or by-law made thereunder or to the extent that they make provision for a matter that is provided for by this Act.

APPLICATION OF INDIAN ACT

5. **Application of Indian Act.** — Except for the purpose of determining which of the Cree beneficiaries and Naskapi beneficiaries are “Indians” within the meaning of the *Indian Act*, the *Indian Act* does not apply to Cree bands or the Naskapi band, nor does it apply on or in respect of Category IA or IA-N land.

BAND BY-LAWS AND RESOLUTIONS

6. **Territorial limits of band by-laws.** — A by-law of a band made under this Act may have application within the following territorial limits:

- (a) that band’s Category IA or IA-N land; and
- (b) Category III land situated within the perimeter of that band’s Category IA or IA-N land and the ownership of which was ceded by letters patent or by any other method
 - (i) prior to November 11, 1975, in the case of Category III land within the perimeter of Category IA land, or
 - (ii) prior to January 31, 1978, in the case of Category III land within the perimeter of Category IA-N land.

7. **By-law may require licence or permit.** — A by-law of a band made under this Act may require the holding of a licence or permit and may provide for the issuance thereof and the fees therefor.

8. **By-law may prohibit activities.** — A by-law of a band made under this Act may prohibit an activity.

9. *Statutory Instruments Act* not to apply. — The *Statutory Instruments Act* does not apply to a by-law or resolution of a band made under this Act.

REGULATIONS

10. Regulations. — The Governor in Council may make regulations

- (a) prescribing anything that by this Act is to be prescribed; and
- (b) generally for carrying out the purposes and provisions of this Act.

INCORPORATION BY REFERENCE OF PROVINCIAL LAWS

11. (1) Incorporation by reference of provincial laws. — For the purpose of applying the portion of paragraph 5.1.13 of the James Bay and Northern Quebec Agreement and of paragraph 5.1.13 of the Northeastern Quebec Agreement dealing with the leasing of lands and the granting of real rights to non-Natives, the Governor in Council may make regulations for the purpose of making provincial law in force in the Province applicable to leasehold interests or other real rights in Category IA or IA-N land granted to non-beneficiaries for periods exceeding five years, including any renewal thereof.

(2) Meaning of “non-beneficiary”. — For the purposes of subsection (1), a non-beneficiary is a person who is not

- (a) a Cree beneficiary, Naskapi beneficiary or Inuk of Fort George;
- (b) a corporation or other body established pursuant to either of the Agreements;
- (c) a corporation or other body the majority of whose shareholders or members are Cree beneficiaries, Naskapi beneficiaries or Inuit of Fort George; or
- (d) a corporation or other body in which Cree beneficiaries, Naskapi beneficiaries or Inuit of Fort George participate, as shareholders or members or otherwise, and that is prescribed.

PART I

LOCAL GOVERNMENT

Incorporation of Bands

12. (1) Incorporation of eight Cree bands. — Pursuant to subparagraph 9.0.1a) of the James Bay and Northern Quebec Agreement, the *Indian Act* Cree bands of

- (a) Great Whale River,
- (b) Chisasibi,
- (c) Old Factory,
- (d) Eastmain,
- (e) Rupert House,
- (f) Nemaska,
- (g) Waswanipi, and
- (h) Mistassini

are hereby separately constituted as corporations bearing the names set out in paragraphs (2)(a) to (h), respectively, subject to section 16.

(2) **Names of incorporated Cree bands.** — The bands incorporated by subsection (1) may, respectively, be legally designated by any of their English, French or Cree names, as follows:

- (a) Great Whale River Band, Bande de Poste-de-la-Balaine, Whapmagoostoo Aeyouch;
- (b) Chisasibi Band, Bande de Chisasibi, Chisasibi Eeyouch;
- (c) Wemindji Band, Bande de Wemindji, Wemindji Eeyou;
- (d) Eastmain Band, Bande de Eastmain, Wapanoutauw Eeyou;
- (e) Waskaganish Band, Bande de Waskaganish, Waskaganish Eeyou;
- (f) Nemaska Band, Bande de Nemiscau, Nemaskauw Eenouch;
- (g) Waswanipi Band, Bande de Waswanipi, Waswanipi Eenouch; and
- (h) Mistassini Band, Bande de Mistassini, Mistasini Eenouch.

13. Predecessor *Indian Act* bands cease to exist. — On the coming into force of this Part, the *Indian Act* Cree bands listed in paragraphs 12(1)(a) to (h) cease to exist, and all their rights, titles, interests, assets, obligations and liabilities, including those of their band councils, shall vest, respectively, in the bands listed in paragraphs 12(2)(a) to (h).

14. (1) Incorporation of Naskapi Band of Quebec. — Pursuant to paragraph 7.1.1 of the Northeastern Quebec Agreement, the *Indian Act* Naskapis de Schefferville band is hereby constituted as a corporation bearing the name of Naskapi Band of Quebec (in English), Bande Naskapi du Québec (in French), and Kobac Naskapi-aeyouch (in Naskapi), subject to section 16.

(2) **Legal designation.** — The band incorporated by subsection (1) may be legally designated by any of its names mentioned in that subsection.

15. *Indian Act* Naskapi band ceases to exist. — On the coming into force of this Part, the *Indian Act* Naskapis de Schefferville band ceases to exist, and all its rights, titles, interests, assets, obligations and liabilities, including those of its band council, shall vest in the Naskapi Band of Quebec.

16. (1) Change of band name. — A band may, by by-law approved by the electors of the band at a special band meeting or referendum at which at least five per cent of the electors voted on the matter, change its English, French or Cree or Naskapi name, but no such by-law is valid unless approved by the Governor in Council.

(2) **Effective date of by-law.** — A by-law made under subsection (1) and approved by the Governor in Council takes effect on the date of its publication in the *Canada Gazette* or on such later date as is specified in the by-law.

Membership of Bands

17. Membership of Cree bands. — The members of each of the Cree bands are the Cree beneficiaries who are enrolled or entitled to be enrolled on the community list in respect of that band pursuant to section 3 of the James Bay and Northern Quebec Agreement.

18. Special provision for Indians who are not Cree beneficiaries. — A person who, immediately before the coming into force of this Part, was a member of one of the *Indian Act* Cree bands mentioned in subsection 12(1) but was not a Cree beneficiary

- (a) shall be deemed to be a member of that band's successor band listed in subsection 12(2) for the purposes of paragraph 21(f), section 45, subsection 55(1), paragraphs 90(2)(a) and (b), subsections 94(3) and (4) and subsection 103(1);
- (b) shall, if eighteen years of age or over and not declared mentally incompetent under the laws of the Province, be deemed to be an elector of the successor band for the purposes of section 63, subparagraph 66(1)(a)(i), sections 68 and 75 and subsection 97(2), but is not eligible to be elected chief of that band; and
- (c) shall, if eighteen years of age or over and not declared mentally incompetent under the laws of the Province, be deemed to be an elector of the successor band for the purposes of section 81, except where the matter submitted to a vote is a matter referred to in Part VI, VII, VIII or IX.

19. (1) Special provision for Inuit of Fort George. — An Inuk of Fort George shall be deemed to be a member of the Chisasibi Band for the purposes of paragraph 21(f), section 45, subsection 55(1), paragraphs 90(2)(a) and (b), subsections 94(3) and (4) and subsection 103(1), and shall be deemed to be a resident of the Category IA land of the Chisasibi Band for the purpose of paragraph 22(2)(b).

(2) **Idem.** — An Inuk of Fort George, if eighteen years of age or over and not declared mentally incompetent under the laws of the Province, shall be deemed to be an elector of the Chisasibi Band for the purposes of section 63, subparagraph 66(1)(a)(i), sections 68 and 75 and subsection 97(2).

(3) **Idem.** — Notwithstanding subsection (2), an Inuk of Fort George is not eligible to be elected chief of the Chisasibi Band.

20. Membership of Naskapi band. — The members of the Naskapi band are the Naskapi beneficiaries.

20.1 Special provision for Indians who are not Naskapi beneficiaries. — A person who, immediately before the coming into force of this Part, was a member of the *Indian Act* Naskapis de Schefferville band but was not a Naskapi beneficiary

- (a) shall be deemed to be a member of the Naskapi band for the purposes of paragraph 21(f), section 45, subsection 55(1), paragraphs 90(2)(a) and (b), subsections 94(3) and (4) and subsection 103(1);
- (b) shall, if eighteen years of age or over and not declared mentally incompetent under the laws of the Province, be deemed to be an elector of the Naskapi band for the purposes of section 63, subparagraph 66(1)(a)(i), sections 68 and 75 and subsection 97(2), but is not eligible to be elected chief of that band; and
- (c) shall, if eighteen years of age or over and not declared mentally incompetent under the laws of the Province, be deemed to be an elector of the Naskapi band for the purposes of section 81, except where the matter submitted to a vote is a matter referred to in Part VI, VII, VIII or IX.

Objects and Powers of Bands

21. Objects of bands. — The objects of a band are

- (a) to act as the local government authority on its Category IA or IA-N land;
- (b) to use, manage, administer and regulate its Category IA or IA-N land and the natural resources thereof;

- (c) to control the disposition of rights and interests in its Category IA or IA-N land and in the natural resources thereof;
- (d) to regulate the use of buildings on its Category IA or IA-N land;
- (e) to use, manage and administer its moneys and other assets;
- (f) to promote the general welfare of the members of the band;
- (g) to promote and carry out community development and charitable works in the community;
- (h) to establish and administer services, programs and projects for members of the band, other residents of Category IA and IA-N land and residents of the Category III land referred to in paragraph 6(b);
- (i) to promote and preserve the culture, values and traditions of the Crees or Naskapis, as the case may be; and
- (j) to exercise the powers and carry out the duties conferred or imposed on the band or on its predecessor *Indian Act* band by any Act of Parliament or regulations made thereunder, and by the Agreements.

22. (1) Legal capacity of bands. — A band has, subject to this Act and the regulations, the capacity, rights, powers and privileges of a natural person.

(2) Restriction on band's commercial activities. — A band shall not engage, directly or indirectly, in any commercial activity, except in so far as it is related to

- (a) the management or administration of
 - (i) its Category IA or IA-N land or the natural resources thereof, or
 - (ii) its buildings or other immovable assets on its Category IA or IA-N land; or
- (b) the provision of public services to or in respect of its Category IA or IA-N land or residents thereof.

(3) Band may own shares in corporations. — Notwithstanding subsection (2), a band may own shares in corporations that carry on commercial activities.

23. (1) Band may not be continued under *Canada Business Corporations Act*. — Section 261 of the *Canada Business Corporations Act* does not apply to a band.

(2) *Canada Corporations Act*. — The *Canada Corporations Act* does not apply to a band.

(3) Application of certain other Acts. — Where provisions of an Act of Parliament specifically applicable to corporations, other than the Acts mentioned in subsections (1) and (2), would apply to a band, the Governor in Council may by order declare that such Act or any provision thereof does not apply to a band.

Head Office of Band

24. Head office of band. — The head office of a band shall be located at such place on its Category IA or IA-N land as is fixed by the band.

Band Council

25. Band council. — The council of a band is a continuing body consisting of the council members holding office pursuant to Part II.

26. Band acts through its council. — A band shall act through its council in exercising its powers and carrying out its duties under this Act.

27. Resolutions and by-laws. — A council shall act by resolution, except where required to act by by-law.

28. Chief. — The chief of a band is the principal representative and chief executive officer of that band and shall perform any duties assigned to him by the regulations and the by-laws of the band.

29. (1) Deputy chief. — In each band, one councillor shall hold office as deputy chief in accordance with an election by-law made under section 64 or in accordance with regulations made under paragraph 67(1)(a).

(2) Duties and powers of deputy chief. — The deputy chief shall perform the duties assigned to him by the regulations and the by-laws of the band, and, in the event that the chief is absent or incapacitated or if the office of chief is vacant, has and may exercise all the powers and duties of the chief.

Council Meetings

30. Council meetings. — By-laws may be enacted or resolutions adopted only at council meetings.

31. Use of Cree or Naskapi language at council meetings. — In addition to any other rights relating to the use of the Cree or Naskapi language, a Cree band may conduct its council meetings in the Cree language and the Naskapi band may conduct its council meetings in the Naskapi language.

32. (1) Language of by-laws and resolutions. — A by-law or resolution of a Cree band or the Naskapi band shall be enacted or adopted in either the English or the French language, and may also be enacted or adopted in the Cree language or the Naskapi language, as the case may be.

(2) Where versions in two or more languages. — Where a by-law is enacted or a resolution is adopted in more than one of the English, French, Cree or Naskapi languages, all versions in which it is enacted or adopted are equally authoritative and, where there is any inconsistency between the different versions, subsection 8(2) of the *Official Languages Act* applies, with such modifications as the circumstances require.

33. (1) Quorum of council. — Except as provided in subsection (2), a quorum of a council consists of a majority of the number of positions of council member, subject to subsection 38(5).

(2) Idem. — Where, at any time, vacancies on the council result in there being in office fewer council members than constitute a quorum under subsection (1), the council members remaining in office constitute a quorum, subject to subsection 38(5), for the limited purpose of enabling the council to act in a care-taker capacity until such time as enough vacancies on the council have been filled pursuant to Part II to restore the quorum referred to in subsection (1).

(3) Filling of vacancies. — Nothing in this section shall be construed to relieve the band of its obligation to call elections as required by subsections 76(1) and (2).

(4) **Where general election called.** — Notwithstanding the length of the term of office of council members fixed pursuant to section 64 or 65 and notwithstanding the band's obligation under subsection 76(1), where a general election of the band is called, the council of the band in office immediately before the calling of that general election continues in office until the date fixed for that general election.

34. (1) Chairmanship of meeting. — The chief or, in his absence, the deputy chief shall act as chairman at council meetings.

(2) **Idem.** — In the event that both the chief and deputy chief are unable to act as chairman at a council meeting, the council shall designate another councillor to so act.

35. (1) Voting. — The approval of any matter by a council requires the affirmative votes of the majority of the council members present when the vote is taken, subject to subsection (2) and subsection 38(5).

(2) **Idem.** — For the purposes of subsection (1), in any vote, where a council member present does not indicate either an affirmative vote or a negative vote or an abstention, he shall be deemed to have voted in the affirmative.

(3) **Where tied vote.** — In the event of a tied vote, the chairman may, except where disqualified from voting under section 38, cast a second vote to determine the question.

36. (1) Inuit of Fort George. — For any period during which the council of the Chisasibi Band does not include an Inuk of Fort George, the Inuit of Fort George are entitled to have one Inuk of Fort George present as an observer at meetings of the council of the Chisasibi Band.

(2) **Regulations respecting Inuk observer.** — The Governor in Council may make regulations respecting the manner of selection and term and tenure of the Inuk observer referred to in subsection (1).

(3) **Rights of Inuk observer.** — The Inuk observer selected pursuant to this section and the regulations shall be notified of, and has the right to attend, all council meetings, and has the right to participate in the deliberations of the council, as if he were a council member, but he does not have the right to vote.

37. (1) When council must meet. — A council shall meet at least once in every calendar quarter.

(2) **Meetings public.** — Subject to subsection (3), council meetings shall be open to the public.

(3) **Decorum.** — The chairman of a council meeting may cause to be expelled and excluded from that meeting any person whom he considers guilty of improper conduct at the meeting.

38. (1) Conflict of interest. — A council member shall disclose to the council any pecuniary interest that he has in any matter before the council and shall not take part in deliberations of the council on that matter or vote on that matter.

(2) **Where disagreement.** — Where a disagreement arises as to whether a council member has a pecuniary interest in a matter before the council, the council shall decide by vote whether the council member has such an interest, and the council member in question may not take part in that vote.

(3) **Idem.** — Where the council decides pursuant to subsection (2) that a council member has a pecuniary interest in a matter before the council, the council member in question shall not take part in deliberations of the council on that matter or vote on that matter.

(4) **Where chairman is disqualified.** — Where, pursuant to this section, the chairman is prohibited from taking part in deliberations and from voting, he may nevertheless continue to act as chairman.

(5) **Effect of disqualification.** — A council member who, pursuant to this section, is disqualified from taking part in deliberations and from voting shall be considered not to be present for the purposes of

- (a) determining a quorum under subsection 33(1) or (2); and
- (b) determining a majority under subsection 35(1).

(6) **Offence.** — A council member who contravenes subsection (1) or (3) is guilty of an offence.

(7) **Application of section to Inuk observer.** — This section, in so far as it is applicable to an Inuk observer referred to in section 36, applies to such an observer as if he were a council member.

39. By-laws respecting council meetings. — A band may make by-laws respecting procedures relating to council meetings, including, without limiting the generality of the foregoing, by-laws respecting notices of meetings, agenda, procedure at meetings and voting.

Committees of a Council

40. (1) By-laws respecting committees. — A band may make by-laws

- (a) establishing such committees as the band considers necessary to assist in the administration of the affairs of the band; and
- (b) setting out the composition and functions of such committees.

(2) **Membership of committees.** — By-laws made under subsection (1) may provide for the membership on committees of persons who are not council members.

(3) **Powers of committees.** — Committees may exercise only advisory or administrative functions and are responsible to the council for the performance of their functions.

Band Bodies, Officers, Employees and Agents

41. (1) Bodies, officers, employees and agents. — A band, by resolution or by-law,

- (a) shall appoint a band secretary and a band treasurer and fix their remuneration;
- (b) may prescribe duties for the band secretary and band treasurer in addition to the duties described in sections 42 and 43; and
- (c) may appoint or engage or provide for the appointment or engagement of such bodies and such officers, in addition to the band secretary and band treasurer referred to in paragraph (a), employees or agents as are necessary for the proper conduct of the affairs of the band, and shall prescribe the duties and fix the remuneration of any body or person so appointed or engaged.

(2) **Multiple office-holders.** — A person may hold concurrently more than one office referred to in subsection (1).

(3) **Employment agreements.** — A band may enter into employment agreements with its officers and employees.

42. (1) Duties of band secretary. — The band secretary is responsible for

- (a) the safekeeping of all the books, records and documents of the band; and
- (b) the preparation of the minutes of all council meetings and band meetings.

(2) **Secretary may certify band documents.** — The band secretary has the power to issue certified copies of any by-law or resolution of the band, and of minutes of council meetings, special band meetings and ordinary band meetings of the band.

(3) **Exercise of secretary's powers.** — The powers referred to in subsection (2) may also be exercised by the chief and by any other person designated by by-law of the band.

43. Duties of band treasurer. — The band treasurer is the chief financial officer of the band, is responsible for the receipt and deposit of band moneys and for all aspects of the financial administration of the band.

44. (1) Return of band property. — Where a person who is a council member, officer or employee of a band ceases, for any reason, to hold office as such, he shall forthwith return to the band any money, keys, books, documents, records or other property of the band that is in his possession by virtue of that office.

(2) **Failure to comply.** — Any person who fails to comply with subsection (1) is guilty of an offence.

By-laws Respecting Local Government

45. (1) Power to make by-laws respecting local government. — Subject to this section, a band may make by-laws of a local nature for the good government of its Category IA or IA-N land and of the inhabitants of such land, and for the general welfare of the members of the band, and, without limiting the generality of the foregoing, may make by-laws respecting

- (a) the administration of band affairs and the internal management of the band;
- (b) the regulation of buildings for the protection of public health and safety, including the construction, maintenance, repair and demolition of buildings;
- (c) health and hygiene, including
 - (i) the prevention of overcrowding of residences,
 - (ii) the sanitary condition of public and private property,
 - (iii) the control or prohibition of activities or undertakings that constitute a danger to public health,
 - (iv) the construction, operation and regulation of waste disposal systems and the collection, removal and disposal of waste generally, and
 - (v) subject to the laws of the Province, the establishment, maintenance and operation of cemeteries;
- (d) public order and safety, including
 - (i) the establishment, maintenance and operation of fire departments,

- (ii) the discharge of firearms or of arms discharged by compressed air or any other means,
- (iii) the keeping of animals,
- (iv) curfews,
- (v) the prohibition of the sale or exchange of alcoholic beverages,
- (vi) the possession or consumption of alcoholic beverages in public places, and
- (vii) the control of public games, sports, races, athletic contests and other amusements;
- (e) the protection of the environment, including natural resources;
- (f) the prevention of pollution;
- (g) the definition of nuisances and the control and prohibition of nuisances;
- (h) the taxation for local purposes, otherwise than by means of an income tax,
 - (i) of interests in its Category IA or IA-N land, except those of Canada and Quebec, and
 - (ii) of occupants and tenants of its Category IA or IA-N land, except Canada and Quebec,

subject to subsections (2) and (3) and subject to and in accordance with regulations made under subsection (4);

- (i) subject to subsection (5), the establishment, maintenance and operation of local services, including services relating to water, sewers, fire protection, recreation, cultural activities, roads, garbage removal and disposal, lighting, heating, power, transportation, communications or snow removal, and respecting user charges for any such service;
- (j) roads, traffic and transportation, including
 - (i) the operation and speed of vehicles,
 - (ii) the maintenance, construction and operation of roads,
 - (iii) the regulation of traffic of all kinds,
 - (iv) the transportation of dangerous substances, and
 - (v) the establishment, maintenance and operation of wharves, harbours, drydocks and other landing places;
- (k) the operation of businesses and the carrying on of trades; and
- (l) parks and recreation.

(2) Taxation by-laws. — A band

- (a) may not make taxation by-laws other than those described in paragraph (1)(h); and
- (b) may not make by-laws under paragraph (1)(h) until there are in force regulations made under subsection (4).

(3) **Idem.** — A by-law made under paragraph (1)(h) must be approved by the electors of the band at a special band meeting or referendum at which at least ten per cent of the electors of the band voted on the matter.

(4) **Regulations respecting taxation power.** — The Governor in Council may make regulations respecting the exercise, pursuant to paragraph (1)(h), of a band's power of taxation, including, without restricting the generality of the foregoing, regulations respecting

- (a) assessments and the determination of tax rates;
- (b) contestation of assessments;

- (c) collection of taxes;
- (d) contestation of taxation; and
- (e) enforcement procedures.

(5) **User charge by-laws.** — A by-law described in paragraph (1)(i) respecting a user charge for a service may differentiate on an equitable basis between different categories of users and different categories of land that benefit from the service, but

- (a) may not delegate to anyone the power to prescribe user charges or user charge rates but must itself prescribe the user charges or the user charge rates; and
- (b) may not prescribe user charges or user charge rates that exceed the total actual or anticipated cost of providing the service.

(6) **Payment in forms other than money.** — A band may accept payment of a tax referred to in paragraph (1)(h) or a user charge referred to in paragraph (1)(i) in a form other than money.

46. (1) **By-laws re land and resource use and planning.** — A band may make by-laws respecting land and resource use and planning, including, without limiting the generality of the foregoing, by-laws respecting

- (a) the inventory, use and management of its Category IA or IA-N land and the natural resources thereof;
- (b) the adoption of land use plans and resource use plans in relation to its Category IA or IA-N land; and
- (c) use permits relating to its Category IA or IA-N land and buildings located thereon, and the conditions relating to the issuance, suspension or revocation of such permits.

(2) **Where plan approved by electors.** — Where a land use plan or resource use plan adopted pursuant to subsection (1) has been approved by the electors of the band at a special band meeting or referendum at which at least twenty-five per cent of the electors voted on the matter, any by-law or resolution of the band, whether made or adopted previously or subsequently, that is inconsistent with such land use plan or resource use plan is inoperative to the extent of the inconsistency.

47. (1) **Zoning by-laws.** — A band may make by-laws respecting zoning, including, without limiting the generality of the foregoing, by-laws respecting

- (a) the division of all or part of its Category IA or IA-N land into zones for the purpose of regulating the use of the land, natural resources thereof, and buildings; and
- (b) the implementation of a land use plan or resource use plan referred to in subsection 46(1) that was approved by the electors of the band under subsection 46(2).

(2) **Approval of band electors required.** — A zoning by-law other than one described in paragraph (1)(b) is subject to the approval of the electors of the band at a special band meeting or referendum at which at least fifteen per cent of the electors vote on the matter.

48. (1) **By-laws on hunting, fishing, trapping, wildlife protection.** — Subject to this section, a band may make by-laws respecting hunting, fishing and trapping and the protection of wildlife, including, without limiting the generality of the foregoing, by-laws respecting

- (a) the exercise of the right to harvest referred to in section 24 of the James Bay and Northern Quebec Agreement and in *An Act respecting hunting and fishing rights in the James Bay and New Quebec territories* (Quebec);

- (b) matters described in sections 85 and 86 of that Act;
- (c) residence requirements relating to sport hunting and sport fishing by persons other than Cree or Naskapi beneficiaries, as contemplated by section 37 of that Act; and
- (d) the right of persons of Cree or Naskapi ancestry to harvest for personal use, as contemplated by sections 38 and 38.1 of that Act.

(2) **Proposed by-laws to be submitted to Coordinating Committee.** — Subject to subsection (3), a copy of each by-law described in subsection (1) that a band proposes to make shall, a reasonable period of time before its enactment, be submitted by the band to the Coordinating Committee referred to in section 24 of the James Bay and Northern Quebec Agreement and in *An Act respecting hunting and fishing rights in the James Bay and New Quebec territories* (Quebec), in order to enable that Committee to make representations to the band with respect thereto, but the band is not bound by any such representations.

(3) **Exceptions.** — Subsection (2) does not apply in respect of a proposed by-law that

- (a) has previously been submitted to the Coordinating Committee pursuant to that subsection, whether or not it has been changed as a result of representations made pursuant to that subsection; or
- (b) makes no substantive change to an existing by-law.

(4) **Approval of band electors required.** — A by-law described in subsection (1) is subject to the approval of the electors of the band at a special band meeting or referendum at which at least ten per cent of the electors vote on the matter.

(5) **Minister may disallow certain by-laws.** — A by-law described in paragraph (1)(b) shall come into force on the day on which a copy thereof, certified by the band secretary, is received by the Minister, but the Minister may disallow the by-law at any time within ninety days after receiving it.

Procedure for Making By-Laws and Resolutions

49. Approval by band electors may be stipulated. — Where a by-law or resolution is not required by this Act to be approved by the electors of the band, the by-law or resolution may nevertheless provide that it does not come into force unless approved by the electors of the band at a special band meeting or referendum at which the minimum percentage of electors specified in the by-law or resolution vote on the matter.

50. (1) Original to be signed. — The original copy of any by-law of a band must be signed by

- (a) the chairman of the council meeting at which it was enacted; and
- (b) the band secretary or such other person as is designated by by-law.

(2) **Minutes of council meetings.** — The minutes of a meeting of a band council are not valid unless adopted by the council by resolution and signed by

- (a) the chairman of the meeting at which they are adopted; and
- (b) the band secretary or such other person as is designated by by-law.

(3) **Where approval of band electors required.** — Where a by-law or resolution is required to be approved by the electors of the band at a special band meeting or referendum, the band secretary

(a) in the case of a by-law, shall attach to the original copy of the by-law a statement signed by him indicating the date when such approval was given; or

(b) in the case of a resolution, shall cause a statement signed by him indicating the date when such approval was given to be recorded in the minutes of the first council meeting following such approval.

(4) **Non-compliance.** — Non-compliance with this section does not invalidate a by-law or resolution.

51. (1) Coming into force of resolutions. — Subject to subsection (2), a resolution comes into force on the day on which it is adopted by a band or on such later day as is specified in the resolution.

(2) **Idem.** — Where a resolution is required to be approved by the electors of the band at a special band meeting or referendum, that resolution comes into force on the day on which such approval is given or on such later day as is specified in the resolution.

52. (1) Posting of by-laws. — Within one week after a by-law has been enacted by a band, or has been enacted by a band and approved by the electors of the band at a special band meeting or referendum (where such approval is required), the band secretary shall post a copy of the by-law on the band's Category IA or IA-N land at a public place designated by the band.

(2) **Coming into force of by-laws.** — A by-law enacted by a band shall come into force on the day on which it is posted, whether or not it is posted within the time set out in subsection (1), or on such day, subsequent to the day on which it is posted, as may be specified in the by-law.

53. (1) Register of by-laws. — The band secretary shall maintain a register of by-laws in which shall be kept the original copy of all by-laws of the band, including by-laws that have been repealed or are no longer in force.

(2) **Recording of resolutions.** — The band secretary shall record the full text of every resolution adopted by the band in the minutes of the council meeting at which the resolution was adopted.

(3) **By-laws to be sent to Minister.** — Within thirty days after the coming into force of a by-law, the band shall forward a copy thereof to the Minister.

(4) **Non-compliance.** — Non-compliance with this section does not affect the validity of a by-law or resolution.

54. Obtaining copies of by-laws and resolutions. — Any person is entitled to obtain a copy of a by-law or resolution of a band on payment of such reasonable fee as is fixed by the band.

Challenges to By-Laws or Resolutions

55. (1) Applications for quashing of by-law or resolution. — Subject to section 56, a member of a band or any other interested person may make application to the Provincial Court or Superior Court of Quebec to have a by-law or resolution of the band quashed, in whole or in part, for illegality or for irregularity in the manner or form of its enactment or adoption.

(2) **Exclusion of Federal Court's jurisdiction.** — Notwithstanding the *Federal Court*

Act, the Federal Court does not have the jurisdiction to hear applications described in subsection (1).

56. (1) Time limit for applying. — An application made under section 55 based on an irregularity in the manner or form of the enactment of a by-law or the adoption of a resolution may not be brought after ninety days after the coming into force of the by-law or resolution.

(2) Idem. — An application made under section 55 based on the illegality of the by-law or resolution may not be brought after six months after the coming into force of the by-law or resolution.

57. Subsequent actions. — Where a by-law or resolution is quashed, any action for anything done under that by-law or resolution lies only against the band and not against any other person.

Transitional

Cree Transitional Provisions

58. Existing councils of *Indian Act* Cree bands. — Subject to section 59, the council of an *Indian Act* Cree band that is in office pursuant to the *Indian Act* immediately before the coming into force of this Part becomes the council of its successor band under this Act on the coming into force of this Part, and continues in office as such until the expiration of its term of office under the *Indian Act* or until a day two years after the coming into force of this Part, whichever occurs first.

59. Provisions of this Act to apply. — For the transitional period described in section 58, the council has the powers and duties of a band council elected under this Act, and the provisions of this Act and the regulations apply, with such modifications as the circumstances require, to that council as if it had been elected under this Act.

60. Continuation in force of by-laws of *Indian Act* Cree bands. — The by-laws of an *Indian Act* Cree band listed in subsection 12(1) that are in force immediately before the coming into force of this Part remain in force on the territory of that band's successor band described in section 6 for a period of one year after the coming into force of this Part, unless repealed during that period pursuant to this Act.

Naskapi Transitional Provisions

61. Existing council of *Indian Act* Naskapi band. — Subject to section 62, the council of the *Indian Act* Naskapis de Schefferville band that is in office pursuant to the *Indian Act* immediately before the coming into force of this Part becomes the council of the Naskapi band on the coming into force of this Part, and continues in office as such until the expiration of its term of office under the *Indian Act* or until a day two years after the coming into force of this Part, whichever occurs first.

62. Provisions of this Act to apply. — For the transitional period described in section 61, the council has the powers and duties of a band council elected under this Act, and the provisions of this Act and the regulations apply, with such modifications as the circumstances require, to that council as if it had been elected under this Act.

PART II

BAND ELECTIONS

63. (1) Each elector entitled to vote. — Subject to subsection (2), each elector of a band is entitled to vote in any election of council members held by that band, whether the election is conducted pursuant to an election by-law made under section 64 or pursuant to regulations made under paragraph 67(1)(a).

(2) Exceptions. — An elector who is appointed a Returning Officer or a Deputy or Assistant Returning Officer under section 71 in respect of an election is not entitled to vote in that election.

Election By-laws

64. Election by-law. — Subject to section 65 and subsection 66(1), a band may make by-laws respecting the election and term of office of its council members.

65. Required minimum content of by-law. — A by-law made under section 64 shall include provision for

- (a) the calling of elections and notices of elections;
- (b) the number of positions of council member;
- (c) the length of the term of office of council members;
- (d) the method of electing council members;
- (e) the basis on which one of the council members shall hold the office of chief;
- (f) the basis on which one of the councillors shall hold the office of deputy chief;
- (g) nomination procedures;
- (h) election method and procedure; and
- (i) the recording and certification of election results.

66. (1) Coming into force and application of election by-law. — A by-law made under section 64, or any amendment thereto or repeal thereof,

- (a) does not come into force until it has been approved by
 - (i) the electors of the band at a special band meeting or referendum at which at least twenty per cent of the electors voted on the matter, and
 - (ii) the Minister; and
- (b) applies only in respect of elections called after its coming into force.

(2) Minister's approval of election by-law. — The Minister shall approve a by-law made under section 64 if it

- (a) is within the power of the band under section 64; and
- (b) includes provision for the matters listed in section 65.

(3) Where Minister disallows by-law. — Where the Minister disallows an election by-law, he shall forthwith inform the band in writing of the reasons why, in his opinion, the by-law does not meet the requirements mentioned in paragraphs (2)(a) and (b).

(4) Where Minister deemed to have approved by-law. — The Minister shall be deemed

to have approved an election by-law if he does not, within thirty days of receiving a copy thereof, either approve or disallow it.

67. (1) Regulations respecting elections. — The Governor in Council may make regulations

- (a) respecting the election of council members and their term of office, including the matters listed in section 65; and
- (b) prohibiting acts that are detrimental to the conduct of free and fair elections.

(2) Application of regulations. — The regulations made under paragraph (1)(b) apply to all elections, but those made under paragraph (1)(a) apply only where, at the time of the calling of the election, there was not in force an election by-law made under section 64.

Eligibility to be Elected and to Serve as Council Member

68. Eligibility to be elected council member. — Any elector of a band is eligible to be elected to the office of council member of that band unless he

- (a) has been convicted of contravening a regulation made under paragraph 67(1)(b) within the two year period preceding the date fixed for the holding of the election for that office or, where the most recent election for that office took place before that two year period, in respect of the most recent election for that office;
- (b) has been appointed as a Returning Officer or as a Deputy or Assistant Returning Officer in respect of the election for that office;
- (c) is the band secretary or band treasurer referred to in section 41;
- (d) is a judge to which the *Judges Act* applies or is a Crown prosecutor;
- (e) is, on the day fixed for the holding of the election for that office, undergoing a term of imprisonment as a result of having been convicted of an indictable offence; or
- (f) in the case of a Naskapi beneficiary, resides on the Matimekossh Reserve.

69. Circumstances in which office becomes vacant. — Apart from general elections referred to in section 74, an office of council member becomes vacant immediately on the occurrence of one of the following events, and only the following events:

- (a) the election of the officer-holder to that office is declared invalid pursuant to subsection 78(7);
- (b) the office-holder
 - (i) dies or submits his resignation in writing to the council,
 - (ii) is convicted of contravening a regulation made under paragraph 67(1)(b),
 - (iii) is appointed band secretary or band treasurer pursuant to section 41,
 - (iv) is appointed a judge to which the *Judges Act* applies or a Crown prosecutor,
 - (v) commences a term of imprisonment as a result of having been convicted of an indictable offence, or
 - (vi) is declared mentally incompetent in accordance with the laws of the Province;
- (c) the office-holder's term of office expires, whether pursuant to this Act, a by-law made under section 64 or regulations made under paragraph 67(1)(a);
- (d) in the case of a Naskapi beneficiary, the office-holder resides on the Matimekossh Reserve; or
- (e) the office is declared vacant pursuant to section 70.

70. (1) Removal of council member for absence. — Where a council member has, without permission from the council, been absent from three or more consecutive council meetings otherwise than by reason of illness or incapacity, any fifteen electors of the band may file a petition with the band secretary requesting that a special band meeting be convened for the purpose of deciding whether the office of that council member should be declared vacant.

(2) Electors to decide question. — Forthwith after the filing of a petition under subsection (1), the band shall call a special band meeting, to be held as soon as possible, for the purpose of deciding whether the office of the council member in question should be declared vacant, and if, with at least twenty per cent of the electors of the band voting on the question, the special band meeting decides that that office should be declared vacant, that office thereupon becomes vacant.

Returning Officers

71. (1) Returning Officers. — Each band shall appoint a person who is not a council member of that band as Returning Officer, and shall fix his tenure and term of office.

(2) Deputy and Assistant Returning Officers. — The Returning Officer of each band shall appoint a Deputy Returning Officer and may appoint such Assistant Returning Officers as are necessary to assist him in the performance of his duties.

(3) Absence, etc., of Returning Officer. — Where the Returning Officer of a band is absent or incapacitated or the office of Returning Officer is vacant, the Deputy Returning Officer of the band has and may exercise all the powers and duties of the Returning Officer.

(4) Absence, etc., of both Returning Officer and Deputy Returning Officer. — In the event of the absence or incapacity of both the Returning Officer and the Deputy Returning Officer of a band or if both such offices are vacant, the band secretary has and may exercise all the powers and duties of the Returning Officer of the band.

72. Eligibility to be appointed. — A person is not eligible to be appointed a Returning Officer or a Deputy or Assistant Returning Officer if he

- (a) is not of the age of majority under the laws of the Province;
- (b) is undergoing a term of imprisonment as a result of having been convicted of an indictable offence; or
- (c) has, at any time, been convicted of contravening a regulation made under paragraph 67(1)(b).

73. Circumstances in which office becomes vacant. — A Returning Officer or Deputy or Assistant Returning Officer ceases to hold office forthwith if he

- (a) is convicted of contravening a regulation made under paragraph 67(1)(b);
- (b) commences a term of imprisonment as a result of having been convicted of an indictable offence; or
- (c) is declared mentally incompetent under the laws of the Province.

Calling of Elections

74. (1) Meaning of “general election”. — Where a general election of a band is held, the term of office of every council member expires on the day of that general election.

(2) **Band may call general election.** — A band may hold a general election at any time.

75. (1) Electors may request general election. — Any ten electors of a band may, subject to subsection (2), file a petition with the band secretary requesting that a special band meeting be convened for the purpose of deciding whether a general election of the band should be held.

(2) **Limitation.** — A petition may not be filed under subsection (1) within one year after the previous general election or within one year after the filing of the most recent valid petition under that subsection.

(3) **Electors may require band to call general election.** — Within ten days after the filing of a valid petition under this section, the band shall call a special band meeting, to be held as soon as possible, for the purpose of deciding whether a general election of the band shall be held, and if, at that special band meeting,

- (a) at least fifty per cent of the electors of the band vote on that question,
- (b) the majority of those voting vote in favour of holding a general election, and
- (c) the majority referred to in paragraph
- (d) consists of at least one-third of the total number of electors of the band,

the band shall forthwith hold a general election.

76. (1) Individual election. — A band shall hold an election for a position of council member forthwith after the expiration of the term of office of that council member.

(2) **Idem.** — Where a position of council member becomes vacant more than six months before the expiration of the term of office of that council member, the band shall forthwith hold an election for that position.

(3) **Idem.** — Where a position of council member becomes vacant less than six months before the expiration of the term of office of that council member, the band may hold an election for that position.

(4) **Where no quorum due to vacancies.** — Where a position of council member becomes vacant less than six months before the expiration of the term of office of that council member, and that vacancy results in there being in office less than the number of council members required to constitute a quorum under subsection 33(1), the band shall, unless it holds an election for that position or a general election, hold an ordinary band meeting within ten days for the purpose of appointing a sufficient number of council members to restore the quorum.

(5) **Method of appointment.** — The appointment of council members referred to in subsection (4) shall be made by a vote of the electors of the band.

(6) **Eligibility rules apply.** — Section 68 applies, with such modifications as the circumstances require, to appointments pursuant to subsection (5).

(7) **Term of appointed council member.** — A council member appointed pursuant to subsection (5) remains in office for the balance of the term in respect of which the vacancy occurred.

77. (1) Where band fails to hold election. — Where a band fails to hold an election pursuant to subsection 75(3) or subsection 76(1) or (2) within ten days after its obligation to do so has arisen, the Returning Officer of the band shall hold the election in question.

(2) **Idem.** — Where a band fails to hold an election or a special band meeting pursuant to subsection 76(4) within ten days after its obligation to do so has arisen, the Returning Officer of the band shall hold the election or special band meeting.

Contestation of Election Results

78. (1) Contestation of election. — Any candidate for election as council member of a band or any fifteen electors of a band may, within five days of the day of any election held by that band, contest the election of any council member or council members elected thereat by submitting to the Returning Officer of the band a written notice to that effect.

(2) **Grounds for contesting election.** — The election of a council member may be contested on the grounds that

(a) a regulation made under paragraph 67(1)(b) was contravened in respect of the election of that council member, whether or not anyone has been prosecuted or convicted for such contravention;

(b) there was non-compliance with this Act, a by-law made under section 64 or a regulation made under paragraph 67(1)(a) in respect of the election of that council member;
or

(c) the person elected council member was ineligible to be elected to that office.

(3) **Petition to judge.** — On receipt of a notice under subsection (1), the Returning Officer shall, within two weeks, prepare and submit to a judge of the Provincial Court or Superior Court of Quebec (hereinafter in this section referred to as “the judge”) a petition in prescribed form setting out the name of the person or persons whose election is being contested, the name of the person or persons contesting the election and the grounds on which the election is being contested.

(4) **Deposit must accompany petition.** — A petition described in subsection (3) must be accompanied by a deposit of two hundred dollars, which, except as provided in subsection (5), shall be refunded to the person or persons contesting the election forthwith after the judge has made a decision on the petition, whether or not the judge declares the election invalid.

(5) **When deposit forfeited.** — Where the judge is of the opinion that the petition was not made in good faith, he may order the deposit forfeited and, where he so orders, the moneys forfeited shall be applied toward the cost of the court proceedings.

(6) **Inquiry into allegations.** — The judge shall inquire into the correctness of the allegations contained in the petition, and for such purposes may exercise all the powers of a commissioner under Part I of the *Inquiries Act*.

(7) **Judge may declare election invalid.** — Where, after hearing the petition, the judge is satisfied, in respect of the election of one or more council members whose election has been contested, that a ground for contestation contained in the petition has been established and that, in the case of the grounds described in paragraph (2)(a) or (b), the offence or non-compliance materially affected the result of the election, he shall declare invalid the election of the council member or council members in respect of whose election he is so satisfied.

(8) **Duplication barred.** — The election of any particular council member cannot be contested a second time on the same ground in respect of the same election.

(9) **Effect on office-holder.** — A council member whose election is contested under this section is entitled to remain in office until such time as the judge has declared his election invalid under subsection (7).

PART III

MEETINGS AND REFERENDA OF THE BAND

79. Who may attend band meetings. — Only electors of the band have a right to attend ordinary band meetings and special band meetings, but other persons may attend with the permission of the band.

80. Use of Cree or Naskapi language. — In addition to any other rights relating to the use of the Cree or Naskapi language, a Cree band may conduct ordinary band meetings, special band meetings and referenda in the Cree language and the Naskapi band may conduct ordinary band meetings, special band meetings and referenda in the Naskapi language.

81. Each elector may vote. — Each elector of a band is entitled to vote in respect of any matter submitted to a vote at an ordinary band meeting, special band meeting or referendum of that band.

Ordinary Band Meetings

82. (1) Ordinary band meetings. — A band shall hold at least one ordinary band meeting each calendar year.

(2) **By-laws respecting ordinary band meetings.** — A band may make by-laws respecting ordinary band meetings, including, without limiting the generality of the foregoing, by-laws respecting the calling of meetings, the conduct of meetings, quorums, voting, and the preparation and keeping of records of votes taken.

Special Band Meetings and Referenda

83. (1) Requirements for approval of measures. — Except as provided in subsections 75(3) and 144(1), a matter shall be deemed to have been approved by the electors of a band at a special band meeting or referendum if

- (a) the required minimum percentage of electors voted on the matter; and
- (b) the majority of those voting voted in favour of the matter.

(2) **Abstentions.** — In any vote at a special band meeting or referendum, an elector who does not cast an affirmative vote or a negative vote or who spoils his ballot shall be deemed not to have voted.

84. Notice of special band meeting or referendum. — Where a band wishes to hold a special band meeting or a referendum, it shall cause to be posted in a public place in the community, at least ten days prior to the date fixed for such meeting or referendum, a notice specifying the date, time and place of the special band meeting or referendum and containing a brief description of the matters to be decided at that special band meeting or referendum.

85. (1) Presiding officer. — A presiding officer shall be appointed by the band for any special band meeting or referendum.

(2) Duties of presiding officer. — A presiding officer appointed pursuant to subsection (1) is responsible for the fair and orderly conduct of the special band meeting or referendum, and for the preparation of a statement, attested to by at least one witness, certifying the results of the special band meeting or referendum.

(3) Preservation of fair and orderly conduct. — The presiding officer may take such measures as are necessary to ensure the fair and orderly conduct of a special band meeting or referendum, and may cause any person engaging in disorderly conduct to be ejected from a special band meeting.

(4) Assistants. — The presiding officer may engage such other persons as are necessary to assist him in carrying out his duties under subsections (2) and (3).

86. (1) Band by-laws re special band meetings and referenda. — A band may make by-laws respecting special band meetings and referenda, including, without limiting the generality of the foregoing, by-laws respecting the calling of meetings and referenda, the conduct of meetings and referenda, voting at meetings and in referenda, and the preparation and keeping of records of votes taken.

(2) By-laws raising percentage voting requirements. — Where a provision of this Act, other than subsection (3), stipulates that a matter requires the approval of the electors of a band at a special band meeting or referendum at which a specified minimum percentage of the electors must vote on the matter, the band may make by-laws, subject to subsection (3), fixing a different minimum percentage, not lower than that specified in the relevant provision of this Act.

(3) Percentage vote required for by-law under subsection (2). — A by-law made under subsection (2) requires the approval of the electors of the band at a special band meeting or referendum at which the same minimum percentage of electors voted on the matter as the minimum specified in the relevant provision of this Act referred to in that subsection.

(4) Copy of by-law to Minister. — A band shall forward to the Minister a copy of any by-law made under this section, within thirty days after its enactment.

87. (1) Regulations respecting special band meetings and referenda. — The Governor in Council may make regulations respecting special band meetings and referenda, including, without limiting the generality of the foregoing, regulations respecting any of the specific matters referred to in subsection 86(1).

(2) Where regulations apply. — The regulations made under subsection (1) apply in respect of a special band meeting or referendum only if, at the time of the calling of that special band meeting or referendum, there is not in force any applicable by-law made under subsection 86(1).

88. Where regulation or by-law not complied with. — Non-compliance with a by-law made under section 86 or a regulation made under section 87 does not affect the validity of the result of a vote unless such non-compliance materially affected that result.

PART IV

FINANCIAL ADMINISTRATION OF BANDS

89. (1) Fiscal year of band. — The fiscal year of a band begins on April 1 of each year and ends on March 31 of the following year, unless otherwise provided by by-law made pursuant to subsection (2).

(2) By-law changing fiscal year. — A band may, by by-law,

(a) adopt a fiscal year different from that provided for in subsection (1); or

(b) where the band has adopted a different fiscal year pursuant to paragraph (a), revert to the fiscal year provided for in subsection (1).

(3) Transition between old and new fiscal years. — Where a by-law is made under subsection (2), the fiscal year provided for in the by-law cannot commence until after the end of the fiscal year in which the by-law came into force.

(4) Idem. — Where a by-law is made under subsection (2), the period between the end of the fiscal year in which the by-law came into force and the commencement of the fiscal year provided for in the by-law shall be deemed to be a separate fiscal year for the purposes of this Part.

90. (1) Budget. — A band shall, by resolution, prior to the beginning of each fiscal year, adopt a budget for that fiscal year, and may, if it deems necessary in the course of the fiscal year, adopt supplementary budgets for that fiscal year.

(2) Explanation and distribution. — Forthwith after adopting a budget or supplementary budget, a band shall

(a) explain the budget or supplementary budget to the members of the band at an ordinary band meeting;

(b) make a copy thereof available at the head office of the band, for inspection by members of the band at reasonable hours; and

(c) send a copy thereof to the Minister.

(3) Where delay in adopting budget. — Where a band fails to adopt a budget for a fiscal year prior to the beginning of that fiscal year, the budget and any supplementary budgets of the previous fiscal year apply until a new budget is adopted.

(4) By-laws. — A band may make by-laws respecting the preparation and implementation of budgets.

(5) Authorization to spend moneys. — A band may not expend moneys or commit itself, by contract or otherwise, to expend moneys, unless

(a) such expenditure is authorized by or under a by-law or resolution; and

(b) a certificate is issued by the band treasurer stating that moneys are available for such expenditure.

(6) Position of other party. — Non-compliance by a band with subsection (5) does not affect the validity or enforceability, with respect to the other party, of a band's commitment to expend moneys, if the other party took reasonable steps to satisfy itself that the band had complied with subsection (5).

(7) **Where inconsistency with budget.** — Where a by-law or resolution referred to in subsection (5) is inconsistent with the band's budget or a supplementary budget, the by-law or resolution shall so state, but non-compliance with this subsection does not affect the validity of the by-law or resolution.

91. (1) Books of account and financial records. — A band shall keep books of account and financial records that

- (a) contain, as a minimum,
 - (i) an account of all moneys received and disbursed,
 - (ii) an account of revenues and expenditures,
 - (iii) a record of accounts payable and receivable,
 - (iv) an account of assets and liabilities, and
 - (v) an account of all other transactions that may affect the financial position of the band;
- (b) conform with generally accepted accounting principles; and
- (c) permit a comparison between
 - (i) revenues and expenditures as shown in the books of account and financial records, and
 - (ii) the projected revenues and expenditures as shown in the budget and any supplementary budget.

(2) **Access to books and records.** — The Minister, a council member or elector of a band, or any person authorized in writing by the Minister or by a council member or elector may, at any reasonable time, inspect the books of account and financial records of the band, and any person who

- (a) obstructs such person, or
- (b) having control or possession of such books or records, fails to give all reasonable assistance to such person

is guilty of an offence.

92. Band to prepare annual financial statement. — Within two months after the end of each fiscal year, a band shall prepare a financial statement in comparative form, containing, as a minimum,

- (a) a balance sheet;
- (b) a statement of revenues and expenditures and a comparison of these with the amounts stated in the band's budget and any supplementary budget; and
- (c) any other information necessary for a fair presentation of the financial position of the band.

Audit

93. (1) Appointment of auditor. — For each fiscal year, the electors of a band shall, at a special band meeting or referendum at which at least five per cent of the electors voted on the matter,

- (a) appoint a duly accredited auditor and fix or provide for his remuneration; or

(b) authorize the council to appoint a duly accredited auditor and to fix or provide for his remuneration.

(2) **Where band fails to make appointment.** — Where no auditor has been appointed under subsection (1) within three months after the beginning of a fiscal year, the Minister may appoint an auditor for that fiscal year and fix his remuneration.

(3) **Term of office.** — The auditor appointed pursuant to subsection (1) or (2) holds office until he is re-appointed, or a new auditor is appointed, under subsection (1) or (2).

(4) **Where vacancy occurs.** — Where a vacancy occurs during the term of the auditor, the band shall forthwith appoint a new auditor for the remainder of the term of the former auditor and shall fix the new auditor's remuneration.

(5) **Where band fails to act.** — Where a band fails to act pursuant to subsection (4), the Minister may appoint a new auditor and fix his remuneration, and shall so inform the band in writing.

(6) **Band to pay remuneration.** — In all cases the auditor's remuneration shall be paid by the band.

94. (1) Duty of auditor. — The auditor shall, within four months after the end of the band's fiscal year, prepare and submit to the band (with a copy to the Minister) a report on the band's financial statement, stating whether, in the opinion of the auditor, the financial statement presents fairly the financial position of the band in accordance with generally accepted accounting principles applies on a basis consistent with that applied in the previous fiscal year.

(2) **Where report delayed.** — Where the auditor has not been able to prepare the report within the period mentioned in subsection (1), he shall notify the band and the Minister of the reasons for the delay.

(3) **Explanation of auditor's report.** — A band shall present and explain the auditor's report to the members of the band at an ordinary band meeting.

(4) **Copy of auditor's report to be made available for inspection.** — A band shall make a copy of the auditor's report available at the head office of the band, for inspection by members of the band at reasonable hours.

95. Auditor's access to records, etc. — For the purpose of preparing his report under subsection 94(1), the auditor may at all reasonable times inspect the financial records, accounts, books, minutes, vouchers and receipts of the band, its subsidiaries and any person or body who administers money on behalf of the band (in so far as the records or other documents relate to the money being administered on behalf of the band), and any person who

(a) obstructs the auditor in the performance of his duties, or

(b) having control or possession of any such documents, fails to give the auditor all reasonable assistance in the performance of his duties

is guilty of an offence.

Borrowing Powers of Band

96. (1) Borrowing limitations. — A band may not borrow money on either a short-term or long-term basis otherwise than in accordance with section 97 and the regulations made under section 98.

(2) **Short-term and long-term borrowing.** — For the purposes of this section and sections 97 and 98,

(a) money shall be deemed to be borrowed on a short-term basis only if

- (i) it is borrowed for the purpose of meeting the normal operating expenditures of the band,
- (ii) it is to be repaid within one year from the day on which it is borrowed, and
- (iii) the band has, prior to borrowing the money, identified the source of revenue from which the money is to be repaid; and

(b) all borrowing that is not on a short-term basis shall be deemed to be on a long-term basis.

(3) **Repayment of loan.** — Where a source of revenue has been identified pursuant to subparagraph (2)(a)(iii), moneys received by the band from that source shall be applied to the repayment of the loan in question.

97. (1) Borrowing by-laws. — Each borrowing by a band, whether on a short-term basis or on a long-term basis, must be authorized by a by-law of the band, which by-law must specify

- (a) the amount to be borrowed and the purpose of borrowing; and
- (b) the manner and terms of repayment and the repayment date or dates.

(2) **Long-term borrowing.** — A by-law made under subsection (1) authorizing long-term borrowing must be approved by the electors of the band at a special band meeting or referendum at which at least twenty per cent of the electors voted on the matter.

(3) **Idem.** — A band may not borrow on a long-term basis until regulations made under section 98 are in force.

98. Regulations re long-term borrowing. — The Governor in Council may make regulations respecting long-term borrowing by bands.

Contracts

99. By-laws re contracts and tenders. — A band may make by-laws respecting procedures for the awarding of contracts and the calling of tenders in relation thereto, and such by-laws may take into account the preferential contract and employment benefits for Cree and Naskapi beneficiaries contained in the Agreements or established pursuant to the Agreements.

Appointment of Administrator

100. (1) When administrator may be appointed. — Where, as a result of an inspection by the Minister or a person authorized by him pursuant to subsection 91(2), the auditor's report under subsection 94(1), or any non-compliance with the provisions of this Part, the Minister is of the opinion that the financial affairs of a band are in serious disorder, he may give written notice to the band of his intention to appoint an administrator to administer the financial affairs of the band, setting out his reasons for so doing.

(2) **Band's opportunity to remedy situation.** — Where a band receives a notice under subsection (1), it shall forthwith take corrective measures to remedy the situation referred to in the notice.

(3) **Appointment of administrator.** — At any time between sixty days and one year after giving notice under subsection (1), the Minister may, if he is of the opinion that the situation referred to in the notice has not been adequately remedied, appoint, by order, an administrator to administer the financial affairs of the band, and the order shall set out the duties of the administrator.

(4) **Effect of appointment.** — Where an administrator has been appointed pursuant to subsection (3), no person shall expend moneys of the band without the consent of the administrator, and any person who violates this subsection is guilty of an offence.

(5) **Administrator's term.** — The administrator appointed pursuant to subsection (3) holds office for a term of four months from the date of his appointment.

(6) **Extension of term.** — At the expiration of the administrator's term of appointment referred to in subsection (5), the Minister may, where he is of the opinion that the financial affairs of the band continue to be in serious disorder, reappoint the administrator, or appoint a new administrator, for a further period not exceeding four months.

(7) **Idem.** — The Minister's power under subsection (6) applies also at the expiration of the term of appointment of an administrator appointed or re-appointed under that subsection.

PART V

RESIDENCE AND ACCESS RIGHTS ON CATEGORY IA AND IA-N LAND

101. General prohibition against residing, etc. — No person may reside on, enter or remain on Category IA or IA-N land otherwise than in accordance with a residence or access right under this Part.

102. (1) Rights subject to by-laws. — The exercise of residence or access rights conferred by sections 103 to 106 is subject to any by-law made under subsection (2).

(2) **By-laws respecting the exercise of residence and access rights.** — A band may make by-laws for the purpose of regulating, on its Category IA or IA-N land, the exercise of residence or access rights conferred by sections 103 to 106, but, except in the case of an authorization to reside under paragraph 103(2)(a) or an authorization of access under paragraph 105(5)(e), such a by-law may not, notwithstanding section 8, unreasonably restrict or, except as provided by subsection 103(3), effectively deny any such residence or access right.

Residence Rights

103. (1) Right to reside on IA or IA-N land. — The following persons have the right to reside on the Category IA or IA-N land of a band:

- (a) a member of that band;
- (b) the member's consort, within the meaning of section 174; and
- (c) the family to the first degree of a person described in paragraph (a) or (b).

(2) **Special categories of persons who may reside on IA or IA-N land.** — In addition to persons described in subsection (1), the following persons may reside on the Category IA or IA-N land of a band:

- (a) a person so authorized in writing by that band or by a by-law of that band;
- (b) a person so authorized by virtue of a grant from that band under Part VIII;
- (c) an administrator holding office pursuant to section 100; and
- (d) subject to subsection (3), a person engaged in administrative or public duties approved by that band or scientific studies approved by that band.

(3) **Band's control over number of outsiders.** — A band may prohibit a person described in paragraph (2)(d) from residing on its Category IA or IA-N land where the number of such persons would be such as to significantly alter the demographic composition of the community.

104. (1) Pre-Agreement residence and occupation rights not affected. — A person who is not a Cree beneficiary and who

- (a) was, immediately before November 11, 1975, residing on or occupying, by virtue of a right of residence or occupancy, land that became Category IA land by virtue of the James Bay and Northern Quebec Agreement, and
- (b) continues to reside on or occupy that land by virtue of that right at the coming into force of this Part

may continue to reside on or occupy that land in accordance with that right until the expiry of that right.

(2) **Idem.** — A person who

- (a) is not a Naskapi beneficiary,
- (b) was, immediately before January 31, 1978, residing on or occupying, by virtue of a right of residence or occupancy, land that became Category IA-N land by virtue of the Northeastern Quebec Agreement, and
- (c) continues to reside on or occupy that land by virtue of that right at the coming into force of this Part

may continue to reside on or occupy that land in accordance with that right until the expiry of that right.

Access Rights

105. (1) Right of access to IA land. — The following persons have a right of access to any Category IA land:

- (a) any Cree beneficiary;
- (b) that beneficiary's consort, within the meaning of section 174; and
- (c) the family to the first degree of a person described in paragraph (a) or (b).

(2) **Indians who are not Cree beneficiaries.** — A person who, immediately before the coming into force of this Part, was a member of one of the *Indian Act* cree bands mentioned in subsection 12(1) but was not a Cree beneficiary has a right of access to the Category IA land of the band of which he is deemed by paragraph 18(a) to be a member.

(3) **Inuit of Fort George.** — The Inuit of Fort George have a right of access to the Category IA land of the Chisasibi Band.

(4) **Right of access to IA-N land.** — The following persons have a right of access to any Category IA-N land:

- (a) any Naskapi beneficiary;
- (b) that beneficiary's consort, within the meaning of section 174;
- (c) the family to the first degree of a person described in paragraph (a) or (b); and
- (d) a person deemed by paragraph 20.1(a) to be a number of the Naskapi band.

(5) **Special categories of persons who are permitted access to IA or IA-N land.** — In addition to persons described in subsections (1) to (4), the following persons are permitted access to Category IA or IA-N land of a band to the extent required in order to exercise their rights or functions referred to below, subject to the terms and conditions of the right or function in question:

- (a) a person who is authorized by a government body or any other public body, established by or under an Act of Parliament, an Act of the legislature of Quebec or a by-law of the band to perform a public function, establish, operate or administer a public service, construct or operate a public installation or conduct a technical survey thereon;
- (b) a holder of a right or interest granted under Part VIII in Category IA or IA-N land or in a building situated thereon;
- (c) a person who has an authorization for commercial exploitation of forest resources referred to in subsection 111(2);
- (d) a holder of a mining right or other subsurface right referred to in section 114 or 115 or a person exercising a right under subsection 113(3); and
- (e) a person authorized in writing by the band or by a by-law of the band.

106. Public's access to public facilities. — Any member of the public is permitted access to the public facilities and installations mentioned in sections 63 and 191–45 of *An Act respecting the land regime in the James Bay and New Quebec territories* (Quebec), where all or any part of such a facility or installation is located on Category IA or IA-N land.

General

107. Special provision for Naskapis. — Notwithstanding the *Indian Act*, a Naskapi beneficiary who, immediately before the coming into force of this section, resided on the Matimekoshe Reserve has the right to continue to reside on, and enjoy access to and movement about, the said reserve, subject to subsection 20.25A of the Northeastern Quebec Agreement.

108. (1) Obstruction and trespass. — Every person who

- (a) unlawfully interferes with a person's residence or access right under this Part, or
- (b) resides on, enters or remains on Category IA or IA-N land otherwise than in accordance with a residence or access right under this Part

is guilty of an offence.

(2) **Other remedies preserved.** — Subsection (1) does not affect any right or remedy that, but for that subsection, would be available in respect of a contravention of section 101.

PART VI

RIGHTS OF BANDS, QUEBEC AND OTHERS IN RELATION TO CATEGORY IA AND IA-N LAND

109. (1) Quebec retains bare ownership. — Quebec retains the bare ownership of Category IA and IA-N land.

(2) **Band's rights re its land and resources.** — Subject to this Act, a band has the exclusive use and benefit of its Category IA or IA-N land and the natural resources thereof, and may administer, manage, control, use and enjoy that land and the natural resources thereof for community, commercial, industrial, residential or other purposes, as if it were the owner thereof.

Soapstone Deposits

110. Band ownership of soapstone deposits. — All deposits of

- (a) soapstone, and
- (b) any other similar material used for traditional arts and crafts of the Crees or Naskapis on Category IA or IA-N land of a band are the property of the band.

Forest Resources

111. (1) Band's rights subject to provincial control. — A band has the exclusive right to the commercial exploitation of forest resources on its Category IA or IA-N land without the payment of stumpage dues, but it may not exercise the right conferred on it by this subsection, either directly or through persons authorized by the band, unless it obtains from the provincial Minister responsible therefor, cutting rights or a licence to cut timber, as required by section 58 (in the case of a Cree band) or section 191-40 (in the case of the Naskapi band) of *An Act respecting the land regime in the James Bay and New Quebec territories* (Quebec).

(2) **Where approval required at band meeting.** — An authorization from a band to a person for commercial exploitation of forest resources on the band's Category IA or IA-N land requires the approval of the electors of the band at a special band meeting or referendum at which at least twenty-five per cent of the electors voted on the matter.

(3) **Right of member of band.** — Subject to any by-law of the band made under section 45 restricting or prohibiting the use of forest resources, a member of a band may use forest resources on the Category IA or IA-N land of his band for personal or community purposes.

Gravel

112. Gravel. — A band, where it has obtained a permit from the ministre de l'Énergie et des Ressources of Quebec pursuant to section 56 (in the case of a Cree band) or section 191-38 (in the case of the Naskapi band) of *An Act respecting the land regime in the James Bay and New Quebec territories* (Quebec), may use, in accordance with that permit, gravel and other similar material generally used for personal or community earthworks.

Mineral, Subsurface and Mining Rights

113. (1) Mineral and subsurface rights. — Subject to this Act, Quebec retains the ownership of all mineral rights and subsurface rights on Category IA and IA-N land.

(2) **Consent and compensation requirements.** — Subject to subsection (3), after November 11, 1975 (in the case of Category IA land) or January 31, 1978 (in the case of Category IA-N land) no mineral right or subsurface right on Category IA or IA-N land of a band may be granted or exercised and no mineral or other subsurface material or substance

may be mined or extracted from such land without the consent of the band and payment to the band of compensation agreed to by the band.

(3) **Exception.** — A holder of an exploration permit described in section 114 or of a right or title described in section 115 may, without the consent and payment referred to in subsection (2) but subject to section 116 and the payment of compensation as set out in that section, explore for and exploit minerals on adjacent Category IA or IA-N land if those minerals extend continuously from the minerals that are the object of the permit, right or title.

(4) **Where approval required at band meeting.** — The following require approval by the electors of a band at a special band meeting or referendum at which at least twenty-five per cent of the electors voted on the matter:

- (a) the giving by the band of the consent referred to in subsection (2);
- (b) a grant by the band of a right or interest in its Category IA or IA-N land in connection with the giving of the consent referred to in subsection (2); and
- (c) the band's agreement as to the type and amount of the compensation referred to in subsection (2).

114. Société de développement de la Baie James. — Where an exploration permit was granted by Quebec to the Société de développement de la Baie James prior to November 11, 1975 for land that subsequently became Category IA land pursuant to the James Bay and Northern Quebec Agreement, the Société de développement de la Baie James may, in accordance with that exploration permit and subject to subsections 116(1) and (2), use that Category IA land to carry out exploration activities and exploit mineral deposits.

115. (1) Holders of prior rights or titles to minerals. — A holder of a right or title (including a mining claim, development licence, exploration permit, mining concession and mining lease) to minerals ("minerals" as defined in the *Mining Act* (Quebec) as it read on November 11, 1975) granted before November 11, 1975 on land surrounded by or adjacent to land that subsequently became Category IA land pursuant to the James Bay and Northern Quebec Agreement may, subject to subsections 116(1) and (2), use that Category IA land to the extent necessary for the exercise of his right or title.

(2) **Idem.** — A holder of a right or title (including a mining claim, development licence, exploration permit, mining concession and mining lease) to minerals ("minerals" as defined in the *Mining Act* (Quebec) as it read on January 31, 1978) granted before January 31, 1978 on land surrounded by or adjacent to land that subsequently became Category IA-N land pursuant to the Northeastern Quebec Agreement may, subject to subsections 116(3) and (4), use that Category IA-N land to the extent necessary for the exercise of his right or title.

116. (1) Manner in which rights must be exercised. — The rights conferred by subsection 113(3), section 114 and subsection 115(1) may not be exercised otherwise than in accordance with Division XXII of the *Mining Act* (Quebec) as it read on November 11, 1975, except that the expropriation of servitudes provided for by that Division shall be restricted to temporary servitudes.

(2) **Compensation to band.** — Where Category IA land is used pursuant to subsection 113(3), section 114 or subsection 115(1), compensation shall be paid to the Cree band in question

- (a) in the form of an equal area of land, where the Category IA land is used for a purpose other than exploration; or

(b) where the Category IA land is used for the purpose of exploration, in an amount equivalent to that paid to Quebec for the use of its land in similar cases.

(3) **Manner in which rights must be exercised.** — The right conferred by subsection 115(2) may not be exercised otherwise than in accordance with Division XXII of the *Mining Act* (Quebec) as it read on January 31, 1978, except that the expropriation of servitudes provided for by that Division shall be restricted to temporary servitudes.

(4) **Compensation to band.** — Where Category IA-N land is used pursuant to subsection 113(3) or 115(2), compensation shall be paid to the Naskapi band

(a) in the form of an equal area of land, where the Category IA-N land is used for a purpose other than exploration; or

(b) where the Category IA-N land is used for the purpose of exploration, in an amount equivalent to that paid to Quebec for the use of its land in similar cases.

(5) **Procedure re replacement land.** — Where compensation is payable under paragraph (2)(a) or paragraph (4)(a), sections 125 and 126 apply, with such modifications as the circumstances require.

Pre-Existing Rights and Interests on Category IA and IA-N Land

117. (1) Certain pre-existing rights on IA land to continue until expiry. — A holder of any lease, occupation permit or other grant or authorization the term of which lease, permit, grant or authorization had not expired at the coming into force of this Part, granted in writing by Quebec before November 11, 1975 on land that subsequently became Category IA land pursuant to the James Bay and Northern Quebec Agreement, may continue to exercise his rights under such lease, permit, grant or authorization, as if the land were Category III land, until the end of the term fixed therein, or, where the term is renewed on or after November 11, 1975, until the end of the renewal period.

(2) **Certain pre-existing rights on IA-N land to continue until expiry.** — A holder of any lease, occupation permit or other grant or authorization the term of which lease, permit, grant or authorization had not expired at the coming into force of this Part, granted in writing by Quebec before January 31, 1978 on land that subsequently became Category IA-N land pursuant to the Northeastern Quebec Agreement, may continue to exercise his rights under such lease, permit, grant or authorization, as if the land were Category III land, until the end of the term fixed therein, or, where the term is renewed on or after January 31, 1978, until the end of the renewal period.

(3) **Replacement of previously held rights and interests.** — Where, immediately before the coming into force of this Part, a person held a right or interest, lawfully granted by the Minister or by an *Indian Act* Cree band,

(a) in Category IA land,

(b) in land that became Category IA land by virtue of the James Bay and Northern Quebec Agreement, or

(c) in a building situated on land described in paragraph (a) or (b),

that band's successor band under this Act shall, if that person so requests within two years after the coming into force of Part VIII, forthwith grant to that person under that Part a right or interest that is equivalent to the person's former right or interest, whereupon the person's former

right or interest expires; and where the person does not make the request within two years after the coming into force of Part VIII, that person's former right or interest expires at the end of that period.

(4) **Idem, for IA-N land.** — Where, immediately before the coming into force of this Part, a person held a right or interest, lawfully granted by the Minister or by the *Indian Act* Naskapis de Schefferville band,

- (a) in Category IA-N land,
- (b) in land that became Category IA-N land by virtue of the Northeastern Quebec Agreement, or
- (c) in a building situated on land described in paragraph (a) or (b), the Naskapi band shall, if that person so requests within two years after the coming into force of Part VIII, forthwith grant to that person under that Part a right or interest that is equivalent to the person's former right or interest, whereupon the person's former right or interest expires; and where the person does not make the request within two years after the coming into force of Part VIII, that person's former right or interest expires at the end of that period.

(5) **Previous possession or occupation.** — Where, immediately before the coming into force of this Part, a person was in possession of, or occupied, with the explicit consent of an *Indian Act* Cree band,

- (a) Category IA land of that band,
- (b) land that became Category IA land of that band by virtue of the James Bay and Northern Quebec Agreement, or
- (c) a building owned by that band and situated on land described in paragraph (a) or (b),

but that person was not a holder of a right or interest in that land or building referred to in subsection (1) or (3), that band's successor band under this Act shall, if that person so requests within two years after the coming into force of Part VIII, forthwith grant to that person under that Part a right or interest in such land or building that is equitable in the circumstances, taking into account that possession or occupation and all other relevant factors.

(6) **Idem, for IA-N land.** — Where, immediately before the coming into force of this Part, a person was in possession of, or occupied, with the explicit consent of the *Indian Act* Naskapis de Schefferville band,

- (a) Category IA-N land of that band,
- (b) land that became Category IA-N land of that band by virtue of the Northeastern Quebec Agreement, or
- (c) a building owned by that band and situated on land described in paragraph (a) or (b),

but that person was not a holder of a right or interest in that land or building referred to in subsection (2) or (4), the Naskapi band shall, if that person so requests within two years after the coming into force of Part VIII, forthwith grant to that person under that Part a right or interest in such land or building that is equitable in the circumstances, taking into account that possession or occupation and all other relevant factors.

(7) **Certain restrictions applicable.** — Subsections 132(2) and (4) and section 137 apply, with such modifications as the circumstances require, in respect of a grant by a band of a right or interest in land pursuant to subsection (3), (4), (5) or (6).

PART VII

EXPROPRIATION OF CATEGORY IA OR IA-N LAND BY QUEBEC

118. Definition of “expropriating authority”. — In this Part, “expropriating authority” means

- (a) Quebec; or
- (b) any public body having the power of expropriation under the laws of the Province and specifically authorized by Quebec to carry out the expropriation in question.

119. (1) Expropriations. — An expropriating authority may not expropriate any Category IA or IA-N land or any interest therein except as provided by this Part.

(2) **Quebec Expropriation Act.** — The *Expropriation Act* (Quebec) applies to expropriations under this Part, except to the extent that it is inconsistent with or in conflict with this Act, in which case this Act prevails to the extent of the inconsistency or conflict.

120. (1) Expropriation of IA and IA-N land for public services or structures. — Subject to this Part, an expropriating authority may expropriate in full ownership any Category IA or IA-N land or any building thereon, or may expropriate a servitude over any Category IA or IA-N land, but only for the purpose of, and to the extent necessary for, the establishment of the following public services or structures:

- (a) infrastructures, such as regional roads and arteries, bridges, airports, maritime structures and protection and irrigation facilities;
- (b) services normally provided by local or municipal governments, including water systems, sewers, purification plants, treatment plants and fire protection services;
- (c) public utilities, including electricity, gas and oil, and telephone and other types of telecommunications;
- (d) gas or oil pipelines, and energy transmission lines, subject to subsection (2); and
- (e) any other service or structure similar to those mentioned in paragraphs (a) to (d) established pursuant to the laws of the Province.

(2) **Pipelines and transmission lines.** — An expropriating authority may expropriate for a purpose mentioned in paragraph (1)(d) only if

- (a) the expropriating authority has previously made all reasonable efforts to locate the pipeline or transmission line on
 - (i) Category III land,
 - (ii) Category II land, in the case of an expropriation of Category IA land or of a servitude over Category IA land, or
 - (iii) Category II-N land, in the case of an expropriation of Category IA-N land or of a servitude over Category IA-N land

and has been unable to do so at a cost substantially equivalent to or lower than the cost of locating the pipeline or transmission line on Category IA or IA-N land, as the case may be; and

- (b) the pipeline or transmission line is to be located as far as possible from the centre of any residential area located on Category IA or IA-N land, and, in the case of Category IA land, at least eight kilometres from such centre.

121. (1) What may be expropriated. — Except as provided in subsections (2) and (3), an expropriating authority may expropriate only servitudes.

(2) Expropriation in full ownership where necessary. — Where a service or structure mentioned in subsection 120(1) cannot be established without a taking of the full use and enjoyment of the Category IA or IA-N land, the expropriating authority may expropriate the land in full ownership.

(3) Expropriation in full ownership required in certain cases. — Where the expropriation of a servitude for the establishment of a service or structure mentioned in subsection 120(1) would effectively prevent the use or enjoyment by the band or its members of the land on which the service or structure is to be established, the expropriating authority may not expropriate the servitude in question but may only expropriate the land in full ownership.

122. (1) Band entitled to compensation. — Subject to section 123, a band is entitled to compensation from the expropriating authority in accordance with this section.

(2) Compensation in land. — A band is entitled to be compensated with an equal area of land where the expropriation is for a purpose mentioned in paragraph 120(1)(d).

(3) Compensation in money. — A band is entitled to be compensated in money in respect of an expropriation of a servitude for a purpose mentioned in paragraph 120(1)(a), (b), (c) or (e), and the amount of compensation must be approved by the electors of the band at a special band meeting or referendum at which at least twenty-five per cent of the electors voted on the matter.

(4) Compensation in land or money or both. — A band is entitled to be compensated with an equal area of land or in money, or partly with land and partly in money, at the band's option, in respect of land expropriated in full ownership for a purpose mentioned in paragraph 120(1)(a), (b), (c) or (e), and the type and amount of compensation must be approved by the electors of the band at a special band meeting or referendum at which at least twenty-five per cent of the electors voted on the matter.

(5) Special provision for Naskapi band. — Notwithstanding subsections (2) and (4), the expropriating authority may compensate the Naskapi band exclusively in money in the circumstances described in the third paragraph of section 191–22 of *An Act respecting the land regime in the James Bay and New Quebec territories* (Quebec).

123. Where no compensation payable. — A band is not entitled to any compensation where the expropriation is for a purpose mentioned in paragraph 120(1)(a), (b), (c) or (e) and the service or structure in question is of direct benefit to the members of the band as a community or to a significant portion of the band's Category IA or IA-N land.

124. (1) Services deemed to be of direct benefit. — For the purposes of section 123, the following services or structures shall be deemed to be of direct benefit under that section:

- (a) services expressly requested by a band from the expropriating authority;
- (b) essential services for the use of the members of a band as a community;
- (c) local services normally provided by a municipal or local government, including local roads, bridges, airports and other similar services; and
- (d) local services normally provided by a public utility.

(2) Statement on expropriation notice. — An expropriating authority shall indicate on an expropriation notice whether or not the service or structure to be established on the land

being expropriated is, in the opinion of the expropriating authority, of direct benefit to the members of the band as a community or to a significant portion of the band's Category IA or IA-N land.

(3) **Idem.** — Where the expropriating authority referred to in subsection (2) fails to indicate its opinion in accordance with that subsection or indicates that, in its opinion, the service or structure referred to in subsection (2) is not of direct benefit to the members of the band as a community or to a significant portion of the band's Category IA or IA-N land, the service or structure shall be deemed, for the purposes of this Part, not to be of direct benefit to the members of the band as a community or to a significant portion of the band's Category IA or IA-N land.

(4) **Disputes referable to Tribunal d'expropriation du Québec.** — Where a band and an expropriating authority disagree as to whether a service or structure is of direct benefit to the members of the band as a community or to a significant portion of the band's Category IA or IA-N land, or disagree as to whether a service or structure is one described in paragraphs (1)(a) to (d), the issue shall be determined by the Tribunal d'expropriation du Québec, unless the parties have agreed to submit the matter to final and binding arbitration.

(5) **Burden of proof on expropriating authority.** — In any disagreement referred to in subsection (4), the burden of proof lies on the expropriating authority.

(6) **Factors to be considered.** — In determining whether a service or structure is one described in paragraph (1)(b), (c) or (d) or whether a service or structure not described in subsection (1) is of direct benefit to the members of a band as a community or to a significant portion of the band's Category IA or IA-N land, regard shall be had to the potential use by the members of the band as a community of the service or structure, the advantages of the service or structure to the members of the band as a community, and the anticipated benefit of the service or structure to the Category IA or IA-N land of the band.

125. (1) Rules governing compensation wholly or partly in land. — Where a band is entitled to be compensated with land under paragraph 116(2)(a), paragraph 116(4)(a) or subsection 122(2) or elects to be compensated wholly or partly with land under subsection 122(4), the following rules apply:

(a) as soon as possible after service of the expropriation notice (where the band has not contested the right to expropriate) or after the final judgment on the right to expropriate (where the band has contested that right), the band shall indicate to the expropriating authority its preference as to the selection of replacement land, which preference must have been agreed to by the electors of the band at a special band meeting or referendum at which at least twenty-five per cent of the electors voted on the matter;

(b) if the selection of replacement land proposed by the band under paragraph (a) is not acceptable to Quebec, Quebec shall, taking into account the preference of the band as expressed under that paragraph, propose to the band alternative replacement land that

(i) is

(A) Category II land of the band or Category III land, in the case of a Cree band, or

(B) Category III land, in the case of the Naskapi band,

(ii) is adjacent to Category IA or IA-N land of the band, as the case may be, and

(iii) is double the area of, and has characteristics reasonably similar to those of the expropriated land;

(c) the band may select from the alternative replacement land proposed by Quebec under paragraph (b) an area of land equal to the area of the expropriated land, and such selection must be approved by the electors of the band at a special band meeting or referendum at which at least twenty-five per cent of the electors voted on the matter;

(d) once replacement land has been accepted by the band, the necessary measures shall forthwith be taken by Quebec and Canada to set aside that replacement land as Category IA or IA-N land of the band, as the case may be, unless other arrangements are agreed to between Quebec and the band and approved at a special band meeting or referendum at which at least twenty-five per cent of the electors voted on the matter; and

(e) where no agreement is reached between Quebec and the band as to the selection of replacement land within one hundred and twenty days after service of the expropriation notice (where the band has not contested the right to expropriate) or after the final judgment on the right to expropriate (where the band has contested that right), the compensation to the band shall be in the form of money instead of replacement land, and where the parties cannot agree on the amount of money, which amount must be approved by the electors of the band at a special band meeting or referendum at which at least twenty-five per cent of the electors voted on the matter, section 127 applies.

(2) Replacement of Category II land. — Where, pursuant to clause (1)(b)(i)(A), Category II land is offered by Quebec and accepted by the band, that Category II land shall itself be replaced in accordance with section 74 of *An Act respecting the land regime in the James Bay and New Quebec territories* (Quebec).

126. Reclassification of expropriated land that is no longer required. — Where

(a) a band has been compensated with replacement land pursuant to paragraph 116(2)(a), paragraph 116(4)(a), subsection 122(2) or subsection 122(4), or

(b) no compensation was paid to the band pursuant to section 123,

and subsequently the expropriated land is no longer required by the expropriating authority for the purpose for which it was expropriated, Canada and Quebec shall forthwith, if requested by the band by resolution approved by the electors of the band at a special band meeting or referendum at which at least twenty-five per cent of the electors voted on the matter, take the necessary measures to reclassify the expropriated land as Category IA or IA-N land, as the case may be, and, in the situation described in paragraph (a), shall take the necessary measures to return the replace land to its former classification.

127. Determination of amount of money compensation referable to Tribunal de l'expropriation du Québec. — Where compensation is payable wholly or partly in money pursuant to subsection 122(3) or (4) or paragraph 125(1)(e), and the parties cannot agree on the amount of such compensation, the amount shall be determined by the Tribunal de l'expropriation du Québec in accordance with the *Expropriation Act* (Quebec), unless the parties submit the matter to final and binding arbitration.

128. When work may begin on service or structure. — In any expropriation under this Part, the establishment of the service or structure or the commencement of construction related thereto may proceed after sixty days from service of the expropriation notice (where the band has not contested the right to expropriate) or from the final judgment on the right to expropriate

(where the band has contested that right), even if negotiations concerning compensation have not been concluded.

129. When expropriated land ceases to be IA or IA-N land. — Where Category IA or IA-N land has been expropriated in full ownership under this Part, the expropriated land ceases to be Category IA or IA-N land

(a) in the case where the band is not entitled to any compensation, as of the later of the two following dates:

- (i) the date of the final judgment on the contestation of the right to expropriate or, where there is no such contestation, as of the day following the last day on which a motion of contestation may be presented, and
- (ii) where the band claims a right to compensation, the date of the final judgment declaring that the band is not entitled to any compensation;

(b) in the case where the band is entitled to compensation in money, or elects pursuant to subsection 122(4) to be compensated in money, the day on which an agreement respecting compensation is concluded or, where there is no agreement as to compensation, as of the date of the final judgment on the amount of compensation pursuant to section 127;

(c) in the case where the band is entitled to compensation in the form of land, or where the band elects pursuant to subsection 122(4) to be compensated entirely in land, the latest of the following days:

- (i) the day on which Canada sets aside the replacement land as Category IA or IA-N land of the band,
- (ii) the day on which an agreement on money compensation pursuant to paragraph 125(1)(e) is concluded, and
- (iii) the day of the final judgment on the amount of money compensation, where there has been no agreement on money compensation under paragraph 125(1)(e); or

(d) in the case where the band elects, pursuant to subsection 122(4), to take compensation partly in the form of land and partly in money, the latest of the following days:

- (i) the day on which Canada sets aside replacement land as Category IA or IA-N land of the band,
- (ii) the day on which an agreement on money compensation is concluded,
- (iii) the day on which, failing an agreement as to replacement land, an agreement on money compensation pursuant to paragraph 125(1)(e) is concluded, and
- (iv) the day of the final judgment on the amount of money compensation, where the amount of money compensation is not agreed on.

PART VIII

DISPOSITIONS OF RIGHTS AND INTERESTS IN CATEGORY IA AND IA-N LAND AND BUILDINGS

130. (1) Definitions. — In this Part,

“lease”. — “lease” does not include an emphyteutic lease;

“transfer”. — “transfer” means a transfer made directly or indirectly, but does not include a transfer by testamentary or intestate succession.

(2) **Deemed transfer of corporation’s right or interest.** — For the purposes of this Part, where a corporation holds a right or interest in Category IA or IA-N land and subsequently there is a change in the effective voting control of that corporation (otherwise than by testamentary or intestate succession), a transfer of that right or interest shall be deemed to have occurred.

(3) **Civil Codes.** — In construing the nature and extent of the rights and interests listed in subsection 132(1), reference shall be had to the *Civil Code of Quebec* and the *Civil Code of Lower Canada* to the extent that they are not inconsistent with this Act or with the provisions of the grant of that right or interest.

131. Quebec landlord and tenant law. — Unless otherwise provided in the lease, provincial laws relating to the rights and obligations of lessors and lessees do not apply to a lease for residential purposes of a building situated on Category IA or IA-N land.

132. (1) Grants by band. — A band may, subject to this Part, grant

(a) with respect to its Category IA or IA-N land, a lease, usufruct, servitude, superficie or other right of use or occupation; and

(b) with respect to its buildings on its Category IA or IA-N land, a lease, emphyteutic lease or usufruct, or a right of ownership, co-ownership, use or habitation, or other right of use or occupation or, subject to the approval of the electors of the band described in subsection 193(3), a hypothec or other charge.

(2) **Maximum term of land grant.** — The term of a grant made under paragraph (1)(a) may not exceed seventy-five years.

(3) **Band elector approval for non-residential grants in land over 10 years.** — A grant for a term of ten years or more made under paragraph (1)(a) for non-residential purposes has no effect unless approved by the electors of the band at a special band meeting or referendum at which

(a) at least ten per cent of the electors of the band voted on the matter, in the case of a grant for a term of less than twenty-five years; or

(b) at least twenty-five per cent of the electors of the band voted on the matter, in the case of a grant for a term of twenty-five years or more.

(4) **How term computed.** — For the purposes of subsections (2) and (3), any period in respect of which a grantee has a right of renewal shall be deemed to be included in the original term of the grant.

133. Grants to be in writing. — A grant made or authorization given under this Part has no effect unless it is made in writing by the band and accepted in writing by the person to whom it is given.

134. (1) Freedom of contract. — A grant made or authorization given under this Part may contain any terms and conditions not inconsistent with this Act.

(2) **Implied terms where grant silent.** — Unless otherwise provided in writing in a grant made under this Part,

- (a) the term of a grant for non-residential purposes shall be deemed to be one year, except in the case of a grant of ownership or co-ownership of a building;
- (b) the term of a grant for residential purposes made to an individual shall be deemed to be fifty years, except in the case of a grant of ownership or co-ownership of a building;
- (c) the band may terminate the right or interest granted after non-use by the grantee of the right or interest for a continuous period of five years;
- (d) the right or interest granted includes such ancillary rights as are necessary for the reasonable exercise of the right or interest granted; and
- (e) the right or interest granted does not include

- (i) the right of accession,
- (ii) the right to renew the term of the grant,
- (iii) the right to reside,
- (iv) in the case of a right or interest in land,

(A) the right to subsequently transfer the right or interest or any part thereof to another person, and

(B) the right to construct or own a building on the land or otherwise have a building located on the land, except in the case of a grant of superficie, and

- (v) in the case of a right or interest in a building originally granted by the band for non-residential purposes, the right to subsequently transfer that right or interest or any part thereof to another person.

135. (1) Commercial fisheries and outfitting operations. — A grant by a band relating to its Category IA or IA-N land does not permit the grantee to use that land for

- (a) a commercial fishery, or
- (b) an “outfitting operation” within the meaning of *An Act respecting hunting and fishing rights in the James Bay and New Quebec territories* (Quebec)

unless explicit permission for such use is included in the terms of the grant or is subsequently given by the band.

(2) Approval of band electors required. — Permission to use Category IA or IA-N land for a purpose mentioned in paragraph (1)(a) or (b), whether included in the terms of the grant or subsequently given by the band, requires the approval of the electors of the band at a special band meeting or referendum at which

- (a) at least ten per cent of the electors of the band voted on the matter, in the case of permission for a period of less than twenty-five years; or
- (b) at least twenty-five per cent of the electors of the band voted on the matter, in the case of permission for a period of twenty-five years or more.

Superficie

136. (1) Right of superficie. — For the purposes of this Part, a right of superficie is a right in land that entitles the holder of the right (referred to in this section as the “superficiary”) to construct and own buildings on the land.

(2) Termination of a right of superficie. — In addition to terminating through the operation of paragraphs 134(2)(a) and (b), a superficie granted under section 132 shall be

deemed to expire if the band becomes the superficiary, or if there is a total loss of the land subject to the superficic.

(3) **Restoration of land to initial state.** — Unless otherwise agreed to in writing by the band and the superficiary prior to the expiration of the term of a superficic, the superficiary shall, at his own expense and prior to the expiration of the term of the superficic,

- (a) remove or demolish any building owned by him on the land; and
- (b) restore the land as near as possible to the state that it was in at the commencement of the term of the superficic.

(4) **Notice to band of intended demolition.** — At least ninety days before demolishing a building pursuant to paragraph (3)(a), the superficiary shall give notice to the band of his intention to demolish the building.

(5) **Band may elect to purchase building.** — A band shall, within forty-five days after receiving a notice referred to in subsection (4), give notice to the superficiary as to whether the band elects or does not elect to purchase the building, and, where the band fails to give such notice within that period, it shall be deemed to have elected not to purchase the building.

(6) **Effect of band's election to purchase building.** — Where the band elects under subsection (5) to purchase the building, the building becomes the property of the band at the time when the band gives notice to the superficiary of its election to purchase the building, and the band shall forthwith compensate the former superficiary in an amount to be agreed on between the band and the superficiary or, where no agreement can be reached, at the fair market value.

(7) **Registration of notice of election to purchase.** — Where, pursuant to subsection (5), a band gives notice to the superficiary that it elects to purchase the building, the band shall cause a copy of that notice to be registered in the land registry system established by Part X, but non-compliance with this subsection does not affect the validity of the notice.

(8) **Where superficiary does not comply with subsection (3) and band does not purchase building.** — Where a band does not elect to purchase the building pursuant to subsection (5) and the superficiary fails to comply with subsection (3), then the building becomes the property of the band on the expiration of the term of the superficic, with no compensation payable to the superficiary.

(9) **Removal and demolition of building.** — Where a band removes or demolishes a building within one year after becoming the owner thereof pursuant to subsection (8), the former superficiary is liable for reasonable costs incurred by the band in so removing or demolishing the building and in restoring the land, within that one year period, as near as possible to the state that it was in at the commencement of the term of the superficic.

Subsequent Transfers of Rights or Interests

137. (1) Band approval for transfer of land originally granted for residential purposes. — Where a right or interest in land was originally granted by a band for residential purposes under paragraph 132(1)(a), a subsequent transfer of that right or interest on any part thereof is of no effect unless authorized by the band, either in the original grant or subsequently.

(2) **Approval of electors for transfer of land originally granted for non-residential**

purposes. — Where a right or interest in land was originally granted by a band for non-residential purposes under paragraph 132(1)(a), a subsequent transfer of that right or interest or any part thereof is of no effect unless authorized by the band, either in the original grant or subsequently, with the approval of the electors of the band at a special band meeting or referendum at which the same percentage of electors voted on the matter as would be required if the right or interest being transferred were being granted by the band under paragraph 132(1)(a).

(3) **Approval for deemed transfer of corporation's right or interest.** — Where a transfer of a right or interest of a corporation in Category IA or IA-N land of a band is deemed to have occurred by virtue of subsection 130(2) as a result of a change in the effective voting control of the corporation and that change in the effective voting control had not been previously authorized by the band pursuant to subsection (1) or (2), as the case may be, that right or interest of the corporation reverts to the band as of the date of the change in effective voting control of the corporation.

General

138. (1) Consultation requirements before certain projects undertaken. — A Cree band shall consult with the department or agency of the Government of Quebec or other person designated by Quebec and the Minister before permitting a person other than

- (a) a Cree beneficiary,
- (b) a body composed of a majority of Cree beneficiaries, or
- (c) a party to the James Bay and Northern Quebec Agreement to develop a project of a regional or provincial nature on the band's Category IA land.

(2) **Idem.** — The Naskapi band shall consult with the department or agency of the Government of Quebec or other person designated by Quebec and the Minister before permitting a person other than

- (a) a Naskapi beneficiary,
- (b) a body composed of a majority of Naskapi beneficiaries, or
- (c) a party to the Northeastern Quebec Agreement

to develop a project of a regional or provincial nature on the band's Category IA-N land.

139. (1) Land to be allocated for community services. — A band shall allocate land necessary for community services provided by Quebec, its agents or mandataries, such as roads, schools, hospitals, police stations and other similar services.

(2) **Mode of allocation and fee.** — The allocation of land by a band pursuant to subsection (1) shall be effected by way of servitude, lease or similar contract, and for a fee not exceeding one dollar.

140. No prescription. — No right or interest in Category IA or IA-N land may be acquired by prescription.

PART IX

CESSIONS BY BANDS

141. (1) Definitions. — In this Part,

“cession”. — “cession” means the ceding of the whole of the rights and interests of a band in or on any of its Category IA or IA-N land;

“registered”. — “registered” means registered in the land registry system referred to in Part X.

(2) **Granting of rights or interests under other Parts of Act.** — For greater certainty, the granting of rights or interests by a band in its Category IA or IA-N land pursuant to any other Part of this Act does not constitute a cession within the meaning of this Part.

142. (1) Cessions by band. — A band may make a cession, but only to Quebec and only in accordance with this Part.

(2) **Conditional or unconditional cession.** — A cession may either be unconditional or may be subject to such terms and conditions as are contained in the Instrument of Cession.

143. (1) Requirements for valid cession. — A cession is not valid unless

- (a) it is approved by the band in accordance with section 144;
- (b) an Instrument of Cession is executed by the band in accordance with paragraph 146(b);
- (c) the statement and document referred to in paragraphs 146(a) and (b) have been submitted to the Minister in accordance with section 146;
- (d) the Governor in Council passes an order in council in accordance with section 147 transferring to Quebec the administration, management and control of the land described in the Instrument of Cession; and
- (e) Quebec has, within six months of the date of the execution of the Instrument of Cession or such longer period as is specified in the Instrument of Cession,

- (i) accepted the cession in accordance with the terms and conditions specified in the Instrument of Cession, and

- (ii) accepted the transfer from Canada of the administration, management and control of the land described in the Instrument of Cession.

(2) **Effective date of a cession.** — The effective date of a cession is the date on which Quebec accepts the cession and the transfer of the administration, management and control pursuant to paragraph (1)(e), unless a later date is specified in the Instrument of Cession, in which case the effective date of the cession is that later date.

144. (1) Cession must be approved by referendum. — A cession requires the approval of the electors of the band in a referendum in which at least sixty-five per cent of the electors of the band vote in favour of the cession.

(2) **Notice of referendum.** — At least thirty days prior to the day fixed for a referendum in which a proposed cession is to be voted on, a notice described in subsection (3)

- (a) must be delivered to all holders of registered rights or interests in or on the land subject to the proposed cession by personal service or by registered mail to the holder's address that is registered in the land registry office; and

- (b) must be posted on the band's Category IA or IA-N land at a public place designated by the band.

(3) **Contents of notice.** — The notice referred to in subsection (2) must clearly state that a proposed cession is to be voted on in the referendum, and must clearly set out

- (a) the time and place of the referendum;
- (b) a reasonably accurate description of the land subject to the proposed cession; and
- (c) the principal terms and conditions of the proposed cession.

145. (1) Rights or interests. — The existence of rights or interests of persons other than the band in or on Category IA or IA-N land, or in a building located thereon, does not in itself bar a cession of that land.

(2) Effect of cession on certain rights. — Except as provided by any agreement to the contrary between the band and Quebec, all rights and interests in or on Category IA or IA-N land subject to a cession and all rights and interests in buildings located thereon, other than rights and interests of Quebec, are extinguished as of the effective date of the cession.

(3) Compensation for extinguished registered rights or interests. — Holders of registered rights or interests in or on Category IA or IA-N land, or in buildings located thereon, whose rights or interests have been extinguished by virtue of subsection (2) are entitled to fair compensation by the band for the value (as of the time of the delivery of the notice pursuant to paragraph 144(2)(a)) of the extinguished right or interest, and the amount of compensation, if not agreed on by the band and the holder of the right or interest, shall be determined in accordance with regulations made under Part XI as if that right or interest had been expropriated by the band.

146. Documents that the band must submit to Minister. — Where a band has approved a cession pursuant to section 144, it shall cause to be submitted to the Minister or to such person as is designated by the Minister, within twenty days after the date of the referendum in which the cession was approved or such longer period as may be authorized by the Minister,

- (a) a written statement of the officer responsible for the conduct of the referendum certifying the results of the vote taken therein; and
- (b) a document specifically designated as an Instrument of Cession, in prescribed form, executed by at least two council members of the band, describing the cession that was approved in the referendum.

147. Transfer to Quebec of administration, management and control. — Where section 146 has been complied with, the Governor in Council shall, by order, transfer to Quebec the administration, management and control of the land described in the Instrument of Cession subject to any terms or conditions set out in the Instrument of Cession.

148. Effect of cession. — As of the effective date of a cession, the land ceded ceases to be Category IA or IA-N land.

149. Land registry system. — A band shall, within sixty days of the effective date of a cession, deposit the Instrument of Cession in the land registry office referred to in Part X, but non-compliance with this section does not affect the validity or effective date of the cession.

PART X

LAND REGISTRY SYSTEM

150. (1) Enforceability of rights and interests. — A right or an interest in Category IA or IA-N land or in a building situated thereon granted after the coming into force of this Part, other than

- (a) an authorization from a band referred to in subsection 111(2),
- (b) a right or interest granted by a band referred to in paragraph 113(4)(b),
- (c) a right conferred by section 114 or 115, and
- (d) a servitude expropriated by an expropriating authority under Part VII,

is not enforceable against a third party unless it is registered in accordance with the regulations made under section 151.

(2) **Enforceability of hypothecs.** — A hypothec granted after the coming into force of this Part on an interest in Category IA or IA-N land or in a building situated thereon is not enforceable against that interest unless it is registered in accordance with the regulations made under section 151.

151. Regulations for establishment and maintenance of land registry system. — The Governor in Council may make regulations for establishing and maintaining a land registry system, under the control and supervision of the Minister, for the registration of rights and interests in Category IA and IA-N land and in buildings situated thereon, and, without restricting the generality of the foregoing, may make regulations respecting

- (a) the establishment and maintenance of land registry offices and their hours of operation;
- (b) the administration of the land registry system, including officers and employees and their powers and duties;
- (c) the procedure for registering rights and interests, including forms and fees;
- (d) the manner and form in which books and records are to be maintained by the land registry offices;
- (e) the effects of registering a right or interest, including priorities;
- (f) the registering of surveys of Category IA or IA-N land;
- (g) the cancellation of instruments registered in the land registry system; and
- (h) the keeping by the land registry offices of non-registrable documents for the purpose of facilitating the management or administration of Category IA or IA-N land or of buildings situated thereon.

152. (1) Duties of band. — A band shall deposit in the land registry office a copy of

- (a) every grant by the band made pursuant to section 132,
- (b) every authorization from the band referred to in subsection 111(2),
- (c) every grant by the band referred to in paragraph 113(4)(b),
- (d) every authorization by the band referred to in section 137,
- (e) every land use plan or resource use plan adopted pursuant to subsection 46(1), and
- (f) every zoning by-law made under section 47,

together with evidence of the approval of the electors of the band where such is required by this Act.

(2) **Validity not affected by non-compliance.** — Failure of a band to comply with subsection (1) does not affect the validity of the grant, authorization, plan or by-law in question.

(3) **Deposit does not constitute registration.** — For greater certainty, the deposit of a document under subsection (1) does not constitute registration of that document.

PART XI

EXPROPRIATION BY BANDS

153. Rights and interests that a band may expropriate. — Where regulations made under section 156 are in force, a band may, subject to and in accordance with those regulations, for community purposes or community works, expropriate any right or interest in its Category IA or IA-N land or in any building situated thereon, except for

- (a) a right or interest of Canada or Quebec;
- (b) a right conferred by section 114 or 115; and
- (c) a servitude expropriated by an expropriating authority under Part VII.

154. Acquisition by mutual agreement. — The right of a band to expropriate pursuant to this Part does not restrict any right that the band has under this Act to acquire, by mutual agreement, rights or interests in land or buildings.

155. Compensation. — A band shall, subject to and in accordance with regulations made under section 156, pay compensation to holders of rights or interests expropriated pursuant to this Part.

156. Regulations. — The Governor in Council may make regulations respecting substantive or procedural aspects of expropriations permitted by this Part, including, without limiting the generality of the foregoing, regulations respecting

- (a) procedure governing expropriation, including the taking of possession, compulsory taking of possession and transfer of title;
- (b) entitlement to compensation, determination of the amount of compensation and the method of payment of compensation; and
- (c) contestation of
 - (i) the right of a band to expropriate,
 - (ii) the right of the expropriated party to compensation, and
 - (iii) the amount of compensation.

PART XII

CREE-NASKAPI COMMISSION

157. Interpretation. — In this Part,

“**Commission**”. — “Commission” means the Cree-Naskapi Commission established by section 158;

“**member**”. — “member” means a member of the Commission;

“**representation**”. — “representation” includes a complaint.

158. (1) Cree-Naskapi Commission established. — There shall be a commission, to be known as the Cree-Naskapi Commission, consisting of a maximum of three individuals appointed by the Governor in Council on the recommendation of the Cree Regional Authority and the Naskapi band.

(2) **Chairman.** — The Governor in Council shall designate one member of the Commission as Chairman.

159. Eligibility. — A council member, officer, employee or agent of a band is not eligible to be appointed or to continue to serve as a member of the Commission.

160. (1) Term of office. — Except as provided by subsection (3), a member shall be appointed for a term of two years.

(2) **Tenure.** — A member may be removed for cause.

(3) **Vacancy.** — Where a member dies or resigns or is removed for cause, a new member shall be appointed for the duration of the unexpired term of the former member.

(4) **Eligibility for re-appointment.** — A member is eligible for re-appointment on the expiration of his term of office.

(5) **Temporary substitute member.** — Where a member is absent or incapacitated, the Governor in Council may, on the recommendation of the Cree Regional Authority and the Naskapi band, appoint a temporary substitute member on such terms as are fixed by the Governor in Council.

(6) **Remuneration of members.** — Members of the Commission shall be paid such remuneration as is fixed by the Governor in Council.

161. Head office. — The head office of the Commission shall be in the City of Val d'Or in the Province or at such other place as the Governor in Council, on the recommendation of the Cree Regional Authority and the Naskapi band, may designate.

162. (1) Staff. — The Commission may, with the approval of the Treasury Board, employ or engage such officers, employees and agents as are necessary for the proper conduct of the work of the Commission.

(2) **Remuneration of staff.** — Persons employed or engaged under subsection (1) shall be paid such remuneration as is fixed by the Commission with the approval of the Treasury Board.

(3) **Not part of public service.** — The members of the Commission and persons employed or engaged under subsection (1) are not part of the public service of Canada by reason only of such membership, employment or engagement.

(4) **Financial.** — The remuneration of the members of the Commission and of persons employed or engaged under subsection (1) shall be paid out of money appropriated by Parliament for that purpose.

163. (1) Quorum. — A quorum of the Commission consists of all members.

(2) **Majority.** — Decisions of the Commission shall be made by majority vote, except as provided in section 164.

(3) **Rules.** — The Commission may make rules for the conduct of its business.

164. Commission may delegate its powers. — The Commission may, by unanimous decision of its members, delegate its powers or duties, except those referred to in subsection 163(3) and paragraph 165(1)(a), to one or more members thereof.

165. (1) Duties of Commission. — The Commission shall

(a) prepare biennial reports on the implementation of this Act, in accordance with subsection 171(1); and

(b) except as provided by subsections (2) and (3), investigate any representation submitted to it relating to the implementation of this Act, including representations relating to the exercise or non-exercise of a power under this Act and the performance or non-performance of a duty under this Act.

(2) **Exception.** — The Commission shall not investigate or continue to investigate a representation in respect of whose subject-matter judicial proceedings have been commenced.

(3) **Commission's discretion.** — The Commission may refuse to investigate a representation or may discontinue an investigation if it is satisfied

(a) that the representation has not been made in good faith;

(b) that the person making the representation does not have a sufficient personal interest in the subject-matter of the representation;

(c) that, having regard to all the circumstances of the case, an investigation, or the continuation of the investigation, as the case may be, would serve no useful purpose; or

(d) that there exists a suitable alternative means by which the representation may be investigated or otherwise pursued.

(4) **Commission to state grounds for refusal.** — Where the Commission refuses to investigate a representation or discontinues an investigation, it shall forthwith, in writing, so inform the person who made the representation, stating and explaining on which of the grounds set out in subsection (2) or (3) the Commission's decision was based.

166. (1) Notice of investigation. — Where the Commission decides to investigate a representation, it shall forthwith give notice to

(a) the person who made the representation;

(b) the band or bands referred to in the representation;

(c) any person whose misconduct is alleged in the representation; and

(d) the Minister.

(2) **Privacy of hearings.** — An investigation by the Commission under this Part shall be conducted in private unless the Commission is satisfied that the public conduct of the investigation would not be prejudicial to the interests of any person, in which case it may order the investigation to be conducted in whole or in part in public.

(3) **Identity of person who made representation.** — Where a person making a representation to the Commission under this Part so requests, the Commission shall not identify that person in any proceeding under this Part or in any report under section 170 or subsection 171(1).

167. Commission may request evidence. — The Commission, where it deems it necessary in the conduct of an investigation under this Part, may request any person to appear before it, give evidence and produce documents and things, but such a person is under no obligation to comply with the request, and the Commission has no power of subpoena.

168. Protection against negative findings. — The Commission shall not make any negative finding against a person unless it has given him reasonable notice of his alleged

misconduct that might form the subject of such a finding and has allowed him an opportunity to be heard in person or by counsel.

169. (1) Protection of members of Commission. — No action lies against the Commission, any member thereof, or any person holding an office or appointment under the Commission, for anything done or reported or said in the course of the exercise or intended exercise of his official functions, unless it is shown that he acted in bad faith.

(2) Protection of witnesses. — In the absence of malice, no action for defamation lies against a person for testimony that he has given under oath before the Commission.

170. Report of investigation. — At the conclusion of an investigation under this Part, the Commission shall prepare a report stating its findings, conclusions and recommendations in respect of the matter investigated, and shall forthwith send copies of the report to the persons referred to in subsection 166(1) and to any person against whom the Commission has made a negative finding.

171. (1) Commission's biennial report to Parliament. — Within two years after the coming into force of this Part and thereafter within six months of every second anniversary of the coming into force of this Part, the Commission shall prepare and submit to the Minister a report, in English, French, Cree and Naskapi, on the implementation of this Act, and the Minister shall cause the report to be laid before each House of Parliament on any of the first ten days on which that House is sitting after the day the Minister receives it.

(2) Circulation of report. — Forthwith after a report is laid before each House of Parliament under subsection (1), the Minister shall send a copy of the report to the Cree Regional Authority, the Naskapi Development Corporation, the council of each Cree band and the council of the Naskapi band.

172. (1) Inquiry into the functioning of the Commission. — Within six months after the fifth anniversary of the coming into force of this Part, the Governor in Council shall appoint a person or persons to inquire into the powers, duties and operation of the Commission.

(2) Report to be tabled in Parliament. — The person or persons appointed under subsection (1) shall, within six months after being appointed, submit a report to the Minister, containing such recommendations as they consider appropriate, and the Minister shall cause the report to be laid before each House of Parliament on any of the first ten days on which that House is sitting after the day the Minister receives it.

PART XIII

SUCCESSIONS

173. Application of Part. — This Part applies only in respect of the succession of a Cree beneficiary or Naskapi beneficiary who dies after the coming into force of this Part and who, at the time of his death, was domiciled on Category IA land (in the case of a Cree beneficiary) or on Category IA-N land (in the case of a Naskapi beneficiary).

174. Definitions. — In this Part,

“child”. — “child” includes an adopted child, where the adoption

(a) was done in accordance with, or is recognized by, the laws of the Province, or

(b) was done in accordance with Cree or Naskapi custom;

“consort”. — “consort” means one of two consorts;

“consorts”. — “consorts” means

(a) a man and a woman who are married and whose marriage was solemnized in accordance with, or is recognized under, the laws of the Province, or

(b) an unmarried man and an unmarried woman who live together as husband and wife, taking into account Cree or Naskapi custom;

“family council”. — “family council” means the family council of a deceased Cree beneficiary or a deceased Naskapi beneficiary, composed in accordance with section 182;

“traditional property”. — “traditional property” means

(a) all movable property, excluding money, normally used in the exercise of the right to harvest referred to in *An Act respecting hunting and fishing rights in the James Bay and New Quebec territories* (Quebec), other than movable property used in commercial fishing, and includes, without limiting the generality of the foregoing, vehicles, boats, motors, guns, traps and camping equipment, and

(b) animal products or by-products that are the product of the exercise of the right to harvest described in paragraph (a).

175. Lawful heirs on intestate succession. — For purposes of intestate succession, a surviving consort and a surviving child are included in the class of lawful heirs of a deceased Cree beneficiary or Naskapi beneficiary.

176. (1) Valid forms of wills. — The following constitute valid wills:

(a) an instrument that is a valid will under the laws of the Province; and

(b) an instrument accepted by the Minister as a will pursuant to subsection (2).

(2) Wills accepted by Minister. — The Minister may accept as a will any written instrument signed by a Cree beneficiary or Naskapi beneficiary, or bearing his mark, in which he indicates his wishes or intention with respect to the disposition of his property on his death.

177. Article 599a of Civil Code not applicable. — Deeds relating to the acceptance, renunciation or settlement of

(a) a succession composed wholly or partly of movable, immovable or traditional property located on Category IA or IA-N land, or

(b) a succession in which persons suffering legal incapacity are interested

are not required to be made in authentic form as required by Article 599a of the *Civil Code of Lower Canada*, but must be in the form prescribed under this Act.

178. (1) Representation of minor heirs. — Where a Cree beneficiary or Naskapi beneficiary who is a minor under the laws of the Province and ordinarily resident on Category IA land, in the case of a Cree beneficiary, or on Category IA-N land, in the case of a Naskapi beneficiary, inherits movable or immovable property by virtue of a testamentary or an intestate succession, the parents of that beneficiary are the legal guardians of that property.

(2) Legal guardians. — Legal guardians by virtue of subsection (1) shall act jointly,

except where one of them is deceased or under a legal incapacity or fails for any reason to act within a reasonable time, in which case the other may act alone.

179. Vacant succession. — Where a Cree beneficiary or Naskapi beneficiary dies leaving no lawful heirs or where all the heirs renounce the succession, the deceased's movable and immovable property become the property of the band of which the deceased was a member at the time of his death, unless the band renounces such succession, in which case it shall be dealt with as a vacant succession.

180. Intestacy. — On an intestacy of a Cree beneficiary or Naskapi beneficiary, a majority of the lawful heirs may appoint the band of which the deceased was a member at the time of his death to administer or provide for the administration of the succession (except as regards traditional property), in which case the band may charge a fee for its services.

Disposition of Traditional Property on an Intestacy

181. (1) Disposition of traditional property on intestacy. — Where a Cree beneficiary or Naskapi beneficiary dies intestate leaving traditional property, the family council of the deceased shall meet within one year of his death to decide on the disposition of his traditional property.

(2) Powers of family council. — The family council referred to in subsection (1) may dispose of the deceased's traditional property in accordance with its decision, and may appoint a willing individual to administer the deceased's estate accordingly.

182. (1) Composition of family council. — The family council of a deceased Cree beneficiary or Naskapi beneficiary shall consist of the following person or persons:

- (a) his surviving consort, if any;
- (b) any surviving children of the age of majority and the legal representatives of any surviving minor children; and
- (c) any surviving parent.

(2) Where no survivors in immediate family. — Where a deceased Cree beneficiary or Naskapi beneficiary leaves no survivors described in subsection (1), the family council of the deceased shall consist of the three closest surviving relatives of the age of majority, as determined in accordance with the law of the Province, who are ordinarily resident in the "Territory" as defined in section 2 of the *James Bay and Northern Quebec Native Claims Settlement Act*.

183. Where family council deadlocked. — Where the family council is unable to reach a decision on the disposition of any part of the deceased's traditional property, it may request the council of the band of which the deceased was a member at the time of his death to appoint one or more willing persons to act as the deceased's family council in respect of that part of the deceased's traditional property on whose disposition the family council had been unable to reach a decision.

184. (1) Circumstances in which band council acts as the family council. — Where the family council has not reached a decision on the disposition of any part of the deceased's traditional property within two years after the deceased's death, the council of the band of which the deceased was a member at the time of his death shall act as the deceased's family council in respect of that part of the deceased's traditional property on whose disposition the family council had not reached a decision.

(2) **Idem.** — Where, on the death of a Cree beneficiary or Naskapi beneficiary,

- (a) the deceased leaves no surviving relatives,
- (b) for any reason a family council cannot be formed, or
- (c) the family council has not met within one year after the deceased's death,

the council of the band of which the deceased was a member at the time of his death shall act as the deceased's family council.

185. Effect of disposition. — A disposition of any traditional property of a deceased Cree beneficiary or Naskapi beneficiary by the deceased's family council pursuant to this Part passes the property in question to the recipient as of the moment when the recipient takes possession of the property, and any debt in respect of that property thenceforth becomes the responsibility of the recipient.

186. Where a recipient renounces traditional property. — Where any person designated by the family council of a deceased Cree beneficiary or Naskapi beneficiary to receive the deceased's traditional property pursuant to this Part renounces the property in question before taking possession of it, and no other person is designated by the family council within six months of such renunciation, the disposition of that property shall thenceforth be governed by the laws of the Province relating to intestate succession.

PART XIV

TAX EXEMPTIONS

187. (1) Interpretation. — In this Part, "Indian" means

- (a) in subsection (2), a Cree beneficiary or Naskapi beneficiary who is an Indian as defined in the *Indian Act*; and
- (b) in section 188, an Indian as defined in the *Indian Act*.

(2) **Idem.** — For the purposes of this Part, personal property

- (a) that became the property of a band by virtue of section 13 or 15 and had been purchased by Canada with money appropriated by Parliament,
- (b) that is purchased by Canada after the coming into force of this Part with money appropriated by Parliament for the use and benefit of Indians or bands, or
- (c) that is given, after the coming into force of this Part, to Indians or to a band under a treaty or agreement between a band and Canada

shall be deemed always to be situated on Category IA or IA-N land.

188. (1) Property exempt from taxation. — Notwithstanding any other Act of Parliament or of the legislature of any province, but subject to any by-laws of a band made pursuant to paragraph 45(1)(h), the following property is exempt from taxation:

- (a) the interest of an Indian or a band in Category IA or IA-N land; and
- (b) the personal property of an Indian or a band situated on Category IA or IA-N land.

(2) **Ownership, occupation, etc., of exempt property.** — Notwithstanding any other Act of Parliament or of the legislature of any province,

- (a) no Indian or band is subject to taxation in respect of the ownership, occupation,

possession or use of any property described in paragraph (1)(a) or (b) or is otherwise subject to taxation in respect of any such property; and
(b) no succession duty, inheritance tax or estate duty is payable on the death of any Indian in respect of any such property or the succession thereto if the property passes to an Indian.

PART XV

SEIZURE EXEMPTIONS

189. Interpretation. — In this Part, “Indian” means an Indian as defined in the *Indian Act*.

190. (1) Property exempt from seizure, etc. — Subject to this Part, movable and immovable property situated on Category IA or IA-N land and belonging to a Cree beneficiary, a Naskapi beneficiary or an Indian ordinarily resident on Category IA or IA-N land, and any right or interest of such a person in Category IA or IA-N land, is not subject to privilege, hypothec or any other charge, or to attachment, levy, seizure or execution, in favour of or at the instance of any person other than a Cree beneficiary, a Cree band or an Indian ordinarily resident on Category IA land (in the case of property of a Cree beneficiary or of an Indian ordinarily resident on Category IA land) or a Naskapi beneficiary, the Naskapi band or an Indian ordinarily resident on Category IA-N land (in the case of property of a Naskapi beneficiary or of an Indian ordinarily resident on Category IA-N land).

(2) **Idem.** — Subject to this Part, movable and immovable property situated on Category IA or IA-N land and belonging to a band is not subject to privilege, hypothec or any other charge, or to attachment, levy, seizure or execution, in favour of or at the instance of any person other than a Cree beneficiary, a Cree band or an Indian ordinarily resident on Category IA land (in the case of property of a Cree band) or a Naskapi beneficiary, the Naskapi band or an Indian ordinarily resident on Category IA-N land (in the case of property of the Naskapi band).

(3) **Idem.** — The right or interest of a band in its Category IA or IA-N land is not subject to privilege, hypothec or any other charge, or to attachment, levy, seizure or execution, in favour of or at the instance of any person.

(4) **Idem.** — A right or interest in Category IA or IA-N land of a person other than a Cree beneficiary of Naskapi beneficiary or a band, or the immovable property of such person situated on Category IA or IA-N land, is not subject to attachment, levy, seizure or execution in favour of or at the instance of any person other than a Cree beneficiary or a Cree band (in the case of Category IA land) or a Naskapi beneficiary or the Naskapi band (in the case of Category IA-N land), except where the band has authorized that person to pledge, charge or hypothecate that right or interest or immovable property, in which case creditors may exercise their normal remedies in relation to that pledge, charge or hypothecation.

(5) **Conditional sales.** — A person who sells movable property to

- (a) a Cree beneficiary,
- (b) a Naskapi beneficiary,
- (c) an Indian ordinarily resident on Category IA or IA-N land, or
- (d) a band

under an agreement whereby the right of property or right of possession thereto remains wholly or in part in the seller may exercise his rights under that agreement notwithstanding that the movable property is situated on Category IA or IA-N land.

191. Property deemed situated on Category IA or IA-N land. — For the purposes of section 190, movable property

- (a) that became the property of a band by virtue of section 13 or 15 and had been purchased with money appropriated by Parliament,
- (b) that is purchased after the coming into force of this Part with money appropriated by Parliament or by the legislature of Quebec for the use and benefit of Indians, Cree beneficiaries, Naskapi beneficiaries, or bands, or
- (c) that is, after the coming into force of this Part, provided to Cree beneficiaries, Naskapi beneficiaries or a band under a treaty or agreement between a band and Canada

shall be deemed always to be situated on Category IA or IA-N land, as the case may be.

192. (1) Property deemed to be property of a Cree band. — Where a Cree band has, pursuant to section 11A.0.6 of the James Bay and Northern Quebec Agreement, delegated to the Cree Regional Authority the power to coordinate and administer a program, movable property that

- (a) is necessary for the coordination or administration of that program,
- (b) is owned by the Cree Regional Authority, and
- (c) was purchased with money appropriated by Parliament or by the legislature of Quebec for the use and benefit of Indians, Cree beneficiaries or Cree bands

shall, for the purposes of section 190, be deemed always to be the property of the Cree band for whose use and benefit it was purchased.

(2) Property deemed to be property of the Naskapi band. — Where the Naskapi band has the authority to delegate the power to coordinate and administer a program to the Naskapi Development Corporation and has so delegated, movable property that

- (a) is necessary for the coordination or administration of that program,
- (b) is owned by the Naskapi Development Corporation, and
- (c) was purchased with money appropriated by Parliament or by the legislature of Quebec for the use and benefit of Indians, Naskapi beneficiaries or the Naskapi band

shall, for the purposes of section 190, be deemed always to be the property of the Naskapi band.

193. (1) Waiver of exemption. — A Cree beneficiary, a Naskapi beneficiary or an Indian ordinarily resident on Category IA or IA-N land may, in writing, waive the exemption conferred by subsection 190(1) in favour of any person, on such terms and conditions as are agreed to by the parties, but, in the case of a right or interest in Category IA or IA-N land, the consent of the band must be obtained to the waiver and the terms and conditions thereof, and the band's consent must be confirmed by the electors of the band at a special band meeting or referendum.

(2) Quorum requirements. — For the purposes of determining the quorum requirement respecting the confirmation of the band's consent referred to in subsection (1), the percentage requirement is the same as if the remaining term of the right or interest in question were being granted by the band under paragraph 132(1)(a).

(3) **Waiver by band.** — A band may, in writing, waive the exemption conferred by subsection 190(2) in favour of any person, on such terms and conditions as are agreed to by the parties, subject to the approval of the waiver and the terms and conditions thereof by the electors of the band at a special band meeting or referendum at which at least twenty-five per cent of the electors voted on the matter.

PART XVI

POLICING

194. (1) Policing jurisdiction (Crees). — For the purposes of the territorial jurisdiction of the Cree village municipalities under the *Police Act* (Quebec), the territory of any such municipality shall be deemed to include Category IA land of the band whose members constitute the Cree village corporation of that municipality.

(2) **Jurisdiction of municipal police forces.** — The police force of a municipality referred to in subsection (1) and the members of that force have jurisdiction over the Category IA land of the band for the purpose of enforcing the applicable laws of Canada and Quebec and the applicable by-laws of the band.

195. (1) Policing jurisdiction (Naskapis). — For the purposes of the territorial jurisdiction of the Naskapi village municipality under the *Police Act* (Quebec), the territory of that municipality shall be deemed to include Category IA-N land.

(2) **Jurisdiction of municipal police force.** — The police force of the Naskapi village municipality referred to in subsection (1) and the members of that force have jurisdiction over Category IA-N land for the purpose of enforcing the applicable laws of Canada and Quebec and the applicable by-laws of the band.

196. (1) Agreements for policing services. — A band may, with the approval of the Attorney General of Quebec and the provincial Minister responsible for municipal affairs, enter into an agreement with

- (a) Quebec,
- (b) the Cree Regional Authority,
- (c) the Kativik Regional Government (within the meaning of *An Act concerning Northern Villages and the Kativik Regional Government* (Quebec)),
- (d) a Cree village corporation (within the meaning of *The Cree and Naskapi Villages Act* (Quebec)), or
- (e) any other body empowered to provide policing services

for the provision of policing services on its Category IA or IA-N land.

(2) **Jurisdiction of police forces.** — A police force and the members thereof providing policing services pursuant to an agreement made under subsection (1) have jurisdiction over the Category IA or IA-N land of the band for the purposes of enforcing the applicable laws of Canada and Quebec and the applicable by-laws of the band.

PART XVII

OFFENCES

197. Offences under the Act. — Every person who commits an offence under subsection 38(6), section 44, subsection 91(2), section 95, subsection 100(4) or section 108 is liable on

summary conviction to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding six months or to both.

198. (1) Contravention of regulations. — Every person who contravenes a regulation made under this Act is guilty of an offence and is liable on summary conviction to the punishment set out in the regulations.

(2) Regulations may fix maximum punishment. — The Governor in Council may make regulations stipulating a maximum fine or a maximum term of imprisonment, or both, for contravention of a regulation, but such maximum fine or maximum term of imprisonment may not exceed two thousand dollars or six months, respectively.

199. (1) Contravention of by-law. — Every person who contravenes a by-law of a band is guilty of an offence and is liable on summary conviction to the punishment set out in the by-law.

(2) By-law may fix maximum punishment. — A by-law of a band may stipulate a maximum fine or a maximum term of imprisonment, or both, for contravention of the by-law, but such maximum fine or maximum term of imprisonment may not exceed two thousand dollars or six months, respectively.

(3) Idem. — A by-law made under paragraph 45(1)(h) may not impose a term of imprisonment for non-payment of taxes.

PART XVIII

ADMINISTRATION OF JUSTICE

200. (1) Jurisdiction of justices of the peace. — In addition to the courts and persons having jurisdiction in respect of the offences listed in paragraphs (a) and (b), justices of the peace appointed pursuant to section 18.0.9 of the James Bay and Northern Quebec Agreement or section 12.4.1 of the Northeastern Quebec Agreement have jurisdiction in respect of

(a) offences under subsection 199(1); and

(b) offences under the following provisions of the *Criminal Code*: subsection 245(1) (common assault), section 401 (injuring or endangering animals) and subsection 402(1) (cruelty to animals).

(2) Summary conviction court. — For the purpose of exercising their jurisdiction in respect of offences listed in paragraphs (1)(a) and (b), the justices of the peace referred to in subsection (1) are a summary conviction court within the meaning of Part XXIV of the *Criminal Code*.

(3) References to *Criminal Code*. — The words in parenthesis paragraph (1)(b) form no part of that paragraph but shall be deemed to have been inserted for convenience of reference only.

PART XIX

GENERAL

201. Where signatory of document unable to write. — Where, under this Act or any regulation or by-law made thereunder, a document is required to be signed by a person and that person is unable to write, that person's mark shall constitute his signature if

- (a) the make is affixed to the document in the presence of a witness who is able to write; and
- (b) the witness affixes his signature to the document beside the mark of the person for whom he is acting as witness.

202. (1) Commissioners of oaths. — In addition to any person authorized to act as a commissioner of oaths under the laws of Canada or of the Province, the chief of a band and the band secretary are *ex officio* commissioners of oaths for the purposes of this Act and any regulation or by-law made thereunder.

(2) **No fee permitted.** — The chief and band secretary shall not charge any fee or other compensation whatsoever for acting as a commissioner of oaths pursuant to subsection (1).

203. (1) Certified copies of documents. — A band secretary may issue certified copies of any by-law or resolution of the band or of any other document issued under the authority of the band.

(2) **Idem.** — A band treasurer may issue certified copies of all or any part of the books of account and financial records of the band.

(3) **Admissibility of certified copies.** — In every case in which an original document could be received in evidence, a certified copy of that document issued under subsection (1) is receivable in evidence without proof of the signature or the official character of the person or persons appearing to have signed the document.

PART XX

CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

Expropriation Act

204. Section 3 of the *Expropriation Act* is amended by adding thereto the following subsection:

“(2) **Exception.** — No interest in land that is Category IA land or Category IA-N land, as defined in the *Cree-Naskapi (of Quebec) Act*, may be expropriated under this Part without the consent of the Governor in Council.”

Canada Assistance Plan

205. (1) The definition “‘band’, ‘council’, ‘Indian’ and ‘reserve’” in section 10 of the *Canada Assistance Plan* is repealed and the following substituted therefor:

“‘band’. — “‘band’ means

- (a) a band, as defined in the *Indian Act*, or
- (b) a band, as defined in the *Cree-Naskapi (of Quebec) Act*,”

(2) Section 10 of the said Act is further amended by adding thereto, immediately after the definition “band”, the following definition:

“‘council’. — “‘council’ means

- (a) the “council of the band”, as defined in the *Indian Act*, or
- (b) the “council”, as defined in the *Cree-Naskapi (of Quebec) Act*,”

(3) Section 10 of the said Act is further amended by adding thereto, immediately after the definition “council”, the following definition:

“**Indian**”. — ““Indian” means an Indian, as defined in the *Indian Act*,”

(4) Section 10 of the said Act is further amended by adding thereto, immediately after the definition “provincial welfare program”, the following definition:

“**reserve**”. — ““reserve” means

- (a) a reserve, as defined in the *Indian Act*, or
- (b) Category IA land or Category IA-N land, as defined in the *Cree-Naskapi (of Quebec) Act*.”

Canada Lands Surveys Act

206. Paragraph 30(1)(a) of the *Canada Lands Surveys Act* is repealed and the following substituted therefor:

“(a) any lands belonging to Her Majesty in right of Canada or of which the Government of Canada has power to dispose that are situated in the Yukon Territory, the Northwest Territories or in any National Part of Canada and any lands that are

- (i) surrendered lands or a reserve, as defined in the *Indian Act*, or
- (ii) Category IA land or Category IA-N land, as defined in the *Cree-Naskapi (of Quebec) Act*; and”

Municipal Grants Act

207. Paragraph (b) of the definition “federal property” in section 2 of the *Municipal Grants Act* is repealed and the following substituted therefor:

“(b) a park, historical site, monument, museum, public library, art gallery, reserve, as defined in the *Indian Act*, or Category IA land or Category IA-N land, as defined in the *Cree-Naskapi (of Quebec) Act*,”

Municipal Grants Act, 1980

208. The definition “taxing authority” in subsection 2(1) of the *Municipal Grants Act, 1980* is amended by striking out the word “or” at the end of paragraph (a) thereof, by adding the word “or” at the end of paragraph (b) thereof and by adding thereto, immediately after paragraph (b) thereof, the following paragraph:

“(c) any band within the meaning of the *Cree-Naskapi (of Quebec) Act* that levies and collects a tax on interests in “Category IA land” or “Category IA-N land” as defined in that Act,”

National Energy Board Act

209. Section 67 of the *National Energy Board Act* is amended by adding thereto the following subsection:

“(3) **Definition of “Indian reserve”.** — In this section, “Indian reserve” means

- (a) a reserve, as defined in the *Indian Act*; or
- (b) Category IA land or Category IA-N land, as defined in the *Cree-Naskapi (of Quebec) Act*.”

National Housing Act

210. Subsection 6(4) of the *National Housing Act* is repealed and the following substituted therefor:

“(4) **Loans to Indians or bands.** — An approved lender may, subject to and in accordance with regulations of the Governor in Council made under the authority of this subsection, make a loan

- (a) to an Indian, to the council of a band or to a group of Indians, within the meaning assigned to those terms by the *Indian Act*, or
- (b) to a Cree band or to the Naskapi band, within the meaning assigned to those terms by the *Cree-Naskapi (of Quebec) Act*,

for the purpose of assisting in the purchase, improvement or construction of a housing project

- (c) on a reserve, within the meaning of the *Indian Act*, or
- (d) on Category IA land or Category IA-N land, within the meaning of the *Cree-Naskapi (of Quebec) Act*,

and such loans are insurable in the manner provided by such regulations.”

211. Subsection 34.1(4) of the said Act is repealed and the following substituted therefor:

“(4) **Definitions.** — In this section,

“**council of a band**”. — “council of a band” means

- (a) the “council of the band”, as defined in the *Indian Act*, or
- (b) the “council”, as defined in the *Cree-Naskapi (of Quebec) Act*;

“**Indian**”. — “Indian” means an Indian, as defined in the *Indian Act*;

“**reserve**”. — “reserve” means

- (a) a reserve, as defined in the *Indian Act*, or
- (b) Category IA land or Category IA-N land, as defined in the *Cree-Naskapi (of Quebec) Act*.”

212. Subsection 56.1(1) of the said Act is amended by striking out the word “or” at the end of paragraph (b) thereof and by adding thereto the following paragraphs:

- “(d) the council of a band, within the meaning of the *Cree-Naskapi (of Quebec) Act*, or
- (e) a group of Cree beneficiaries or Naskapi beneficiaries, within the meaning of the *Cree-Naskapi (of Quebec) Act*, each member of which

- (i) is an Indian, within the meaning of the *Indian Act*, and
- (ii) resides on Category IA land or Category IA-N land, as defined in the *Cree-Naskapi (of Quebec) Act*.”

213. Section 59 of the said Act is repealed and the following substituted therefor:

“**59. Loans to Indians.** — The Corporation may, subject to and in accordance with regulations of the Governor in Council, make loans to Indians, as defined in the *Indian Act*, for the purpose of assisting in the purchase, improvement or construction of housing projects on

(a) a reserve, as defined in the *Indian Act*; or

(b) Category IA land or Category IA-N land, as defined in the *Cree-Naskapi (of Quebec) Act*.”

Railway Act

214. Subsection 133(1) of the *Railway Act* is repealed and the following substituted therefor:

“**133. (1) Indian lands.** — No company shall take possession of or occupy any portion of any

(a) reserve or surrendered lands, as defined in the *Indian Act*, or

(b) Category IA land or Category IA-N land, as defined in the *Cree-Naskapi (of Quebec) Act*,

without the consent of the Governor in Council.”

Lord's Day Act

215. (1) Section 7.1 of the *Lord's Day Act* is renumbered as subsection 7.1(1).

(2) Section 7.1 of the said Act is further amended by adding thereto the following subsection:

“(20) **Definition of “Indian reserve”.** — In subsection (1), “Indian reserve” includes Category IA land and Category IA-N land, as defined in the *Cree-Naskapi (of Quebec) Act*.”

Privacy Act

216. Section 8 of the *Privacy Act* is amended by adding thereto the following subsection:

“(6) **Definition of “Indian band”.** — In paragraph (2)(k), “Indian band” means

(a) a band, as defined in the *Indian Act*; or

(b) a band, as defined in the *Cree-Naskapi (of Quebec) Act*.”

Veterans' Land Act

217. Section 46 of the *Veterans' Land Act* is amended by adding thereto the following subsection:

“(4) **Definition of “Indian reserve”.** — In this section, “Indian reserve” means

(a) a reserve, as defined in the *Indian Act*; or

(b) Category IA land or Category IA-N land, as defined in the *Cree-Naskapi (of Quebec) Act*.”

COMING INTO FORCE

218. Coming into force. — This Act, or any provision thereof, shall come into force on a day or days to be fixed by proclamation.

GWICH' IN LAND CLAIM SETTLEMENT ACT

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GWICH'IN LAND CLAIM SETTLEMENT ACT

S.C. 1992, c. 53

An Act to approve, give effect to and declare valid the Agreement between Her Majesty the Queen in right of Canada and the Gwich'in, as represented by the Gwich'in Tribal Council, and to amend an Act in consequence thereof

Preamble. — WHEREAS the Gwich'in, from time immemorial, have traditionally used and occupied lands in the Yukon Territory and the Northwest Territories;

WHEREAS the *Constitution Act, 1982* recognizes and affirms the existing aboriginal and treaty rights of the aboriginal peoples of Canada;

WHEREAS Her Majesty the Queen in right of Canada and the Gwich'in, as represented by the Gwich'in Tribal Council, have negotiated in order to achieve certainty and clarity of rights with respect to ownership and use of land and resources;

WHEREAS Her Majesty the Queen in right of Canada and the Gwich'in, as represented by the Gwich'in Tribal Council, on April 22, 1992, entered into a comprehensive land claims agreement that, in exchange for the release by the Gwich'in of certain rights and claims as set out in the Agreement, defines certain rights that the Gwich'in shall have, and confirms the treaty rights of the Gwich'in that are unaffected by that release;

WHEREAS the Agreement further provides that the Agreement will be a land claims agreement referred to in section 35 of the *Constitution Act, 1982* and that approval by Parliament is a condition precedent to the validity of the Agreement;

NOW, THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

1. **Short title.** — This Act may be cited as the *Gwich'in Land Claim Settlement Act*.

INTERPRETATION

2. **Definition of "Agreement".** — In this Act, "Agreement" means the Comprehensive Land Claim Agreement between Her Majesty the Queen in right of Canada and the Gwich'in, as represented by the Gwich'in Tribal Council, signed on April 22, 1992, tabled in the House of Commons for the Minister of Indian Affairs and Northern Development on November 16, 1992, and includes amendments made from time to time pursuant to the Agreement.

HER MAJESTY

3. **Binding on Her Majesty.** — This Act is binding on Her Majesty in right of Canada or a province.

AGREEMENT

4. (1) **Agreement.** — The Agreement is hereby approved, given effect and declared valid.

(2) **Idem.** — For greater certainty, where the Agreement confers on any person or body a right, privilege, benefit or power, requires any person or body to perform a duty or subjects any person or body to a liability, that person or body may exercise the right, privilege, benefit or power, shall perform the duty or is subject to the liability to the extent provided for by the Agreement.

(3) **Idem.** — For greater certainty, title to lands vests in the Gwich'in Tribal Council as set out in the Agreement.

5. **Renewable Resources Board.** — For the purposes of carrying out its objectives, the Renewable Resources Board established by the Agreement has the capacity, rights, powers and privileges of a natural person.

6. **Orders and regulations.** — The Governor in Council may make such orders and regulations as are necessary for the purpose of carrying out the Agreement or for giving effect to any of the provisions thereof.

7. **Publication of Agreement and amendments.** — The Minister of Indian Affairs and Northern Development shall cause a certified copy of the Agreement and any amendments thereto to be deposited in

- (a) the library of the Department of Indian Affairs and Northern Development that is situated in the National Capital Region;
- (b) the regional offices of the Department of Indian Affairs and Northern Development that are situated in the Yukon Territory and the Northwest Territories;
- (c) the legislative libraries of the Government of the Yukon Territory and the Government of the Northwest Territories; and
- (d) such other places as the Minister deems necessary.

CONSTRUCTION

8. **Inconsistency or conflict.** — Where there is any inconsistency or conflict between this Act or the Agreement and the provisions of any law, this Act or the Agreement, as the case may be, prevails to the extent of the inconsistency or conflict.

APPROPRIATION

9. **Payments out of C.R.F.** — There shall be paid out of the Consolidated Revenue Fund such sums as may be required to meet the monetary obligations of Canada under chapters 8 and 9 of the Agreement.

CONSEQUENTIAL AMENDMENT

Land Titles Act

10. The *Land Titles Act* is amended by adding thereto, immediately after section 69 thereof, the following section:

69.1 Lands vested in Gwich'in Tribal Council. — Notwithstanding any other provision of this Act,

(a) a survey is not required in order to issue a certificate of title for lands vested in the Gwich'in Tribal Council and set out in Schedules I, II and III of Appendix F to the Agreement as defined in the *Gwich'in Land Claim Settlement Act*; and

(b) the Registrar may register the lands set out in Annex B of Appendix C and in Schedules I, II and III of Appendix F to that Agreement in as many discrete parcels, and of such size, as the Registrar considers necessary, and such lands may be registered separately from other Gwich'in lands set out in that Agreement.

COMING INTO FORCE

11. Coming into force. — This Act shall come into force on a day to be fixed by order of the Governor in Council.

JAMES BAY AND NORTHERN QUEBEC NATIVE CLAIMS SETTLEMENT ACT

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JAMES BAY AND NORTHERN QUEBEC NATIVE CLAIMS SETTLEMENT ACT

S.C. 1976-77, c. 32

An Act to approve, give effect to and declare valid certain agreements between the Grand Council of the Crees (of Quebec), the Northern Quebec Inuit Association, the Government of Quebec, la Société d'énergie de la Baie James, la Société de développement de la Baie James, la Commission hydro-électrique de Québec and the Government of Canada and certain other related agreements to which the Government of Canada is a party

Preamble. — WHEREAS the Government of Canada and the Government of Quebec have entered into an Agreement with the Crees and the Inuit inhabiting the Territory within the purview of the 1898 acts respecting the Northwestern, Northern and Northeastern Boundaries of the Province of Quebec and the 1912 Quebec Boundaries extension acts, and with the Inuit of Port Burwell;

AND WHEREAS the Government of Canada and the Government of Quebec have assumed certain obligations under the Agreement in favour of the said Crees and Inuit;

AND WHEREAS the Agreement provides, *inter alia* for the grant to or the setting aside for Crees and Inuit of certain lands in the Territory, the right of the Crees and Inuit to hunt, fish and trap in accordance with the regime established therein, the establishment in the Territory of regional and local governments to ensure the full and active participation of the Crees and Inuit in the administration of the Territory, measures to safeguard and protect their culture and to ensure their involvement in the promotion and development of their culture, the establishment of laws, regulations and procedures to manage and protect the environment in the Territory, remedial and other measures respecting hydro-electric development in the Territory, the creation and continuance of institutions and programs to promote the economic and social development of the Crees and Inuit and to encourage their full participation in society, an income support program for Cree and Inuit hunters, fishermen and trappers and the payment to the Crees and Inuit of certain monetary compensation;

AND WHEREAS the Agreement further provides in consideration of the rights and benefits set forth therein for the surrender by the said Crees, the Inuit of Quebec and the Inuit of Port Burwell of all their native claims, rights, titles and interests, whatever they may be, in and to the land in the Territory and in Quebec;

AND WHEREAS Parliament and the Government of Canada recognize and affirm a special responsibility for the said Crees and Inuit;

AND WHEREAS it is expedient that Parliament approve, give effect to and declare valid the Agreement;

NOW, THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

1. Short title. — This Act may be cited as the *James Bay and Northern Quebec Native Claims Settlement Act*.

INTERPRETATION

2. Definitions. — In this Act,

“Agreement”. — “Agreement” means the agreement between the Grand Council of the Crees (of Quebec), the Northern Quebec Inuit Association, the Government of Quebec, la Société d’énergie de la Baie James, la Société de développement de la Baie James, la Commission hydro-électrique de Québec and the Government of Canada dated November 11, 1975, as amended by the agreement between the same parties dated December 12, 1975, tabled in the House of Commons by the Minister of Indian Affairs and Northern Development on July 13, 1976 and recorded as document number 301-5/180C;

“Territory”. — “Territory” has the meaning assigned to that word by subsection 1.16 of the Agreement, namely, the entire area of land contemplated by the 1912 Quebec boundaries extension acts (an Act respecting the extension of the Province of Quebec by the annexation of Ungava, Que. 2 Geo. V, c. 7 and the Quebec Boundaries Extension Act, 1912, Can. 2 Geo. V, c. 45) and by the 1898 acts (an Act respecting the delimitation of the Northwestern, Northern and Northeastern boundaries of the Province of Quebec, Que. 61 Vict. c. 6 and an Act respecting the Northwestern, Northern and Northeastern boundaries of the Province of Quebec, Can. 61 Vict. c. 3).

AGREEMENT

3. (1) Agreement approved. — The Agreement is hereby approved, given effect and declared valid.

(2) Conferral of rights and benefits. — Upon the extinguishment of the native claims, rights, title and interests referred to in subsection (3), the beneficiaries under the Agreement shall have the rights, privileges and benefits set out in the Agreement.

(3) Extinguishment of claims. — All native claims, rights, title and interests, whatever they may be, in and to the Territory, of all Indians and all Inuit, wherever they may be, are hereby extinguished, but nothing in this Act prejudices the rights of such persons as Canadian citizens and they shall continue to be entitled to all of the rights and benefits of all other citizens as well as to those resulting from the *Indian Act*, where applicable, and from other legislation applicable to them from time to time.

(4) Exemption from taxation. — The total amount mentioned in subsection 25.3 of the Agreement as monetary compensation and all the other sums mentioned in that subsection are exempt from taxation in the manner and to the extent set out in that subsection.

(5) Regulations. — The Governor in Council may make such regulations as are necessary for the purpose of carrying out the Agreement or for giving effect to any of the provisions thereof.

(6) Interest. — Any sum of money payable by the Government of Canada under section

25 of the Agreement shall, in the event of default in making payment, bear interest from the date of such default at the legal rate of interest.

SUPPLEMENTARY AND OTHER AGREEMENTS

4. (1) Supplementary and other agreements approved. — Subject to sections 5 and 6, the Governor in Council may, by order, approve, give effect to and declare valid

(a) any agreement pursuant to subsection 2.15 of the Agreement to which the Government of Canada is a party that amends or modifies the Agreement; or

(b) any agreement to which the Government of Canada is a party with the Naskapi Indians of Schefferville, Quebec, or with any other Indians or Inuit or groups thereof, concerning the native claims, rights, title and interests that such Indians, Inuit or groups thereof may have had in and to the Territory prior to the coming into force of this Act.

(2) **Idem.** — No order shall be made under paragraph (1)(b) in respect of any agreement under that paragraph that expressly or by necessary implication amends or modifies the Agreement unless the procedure set forth in subsection 2.15 of the Agreement has been followed.

(3) **Conferral of rights and benefits.** — Upon the coming into force of an order of the Governor in Council approving, giving effect to and declaring valid an agreement referred to in paragraph (1)(b), the beneficiaries under the agreement shall have the rights, privileges and benefits set out in the agreement.

(4) **Exemption from taxation.** — Any capital amounts payable as compensation under an agreement approved, given effect to and declared valid under paragraph (1)(b) shall be exempt from taxation in the manner and to the extent set out in the agreement.

(5) **Regulations.** — The Governor in Council may make such regulations as are necessary for the purpose of carrying out any agreement approved, given effect and declared valid under subsection (1) or for giving effect to any of the provisions thereof.

5. (1) Tabling order. — An order under subsection 4(1), together with the agreement to which the order relates, shall be laid before Parliament not later than fifteen days after its issue or, if Parliament is not then sitting, within the first fifteen days next thereafter that Parliament is sitting.

(2) **Coming into force.** — An order referred to in subsection (1) shall come into force on the thirtieth sitting day after it has been laid before Parliament pursuant to that subsection unless before the twentieth sitting day after the order has been laid before Parliament a motion for the consideration of the House of Commons or Senate, to the effect that the order be revoked, signed by not less than fifty members of the House of Commons in the case of a motion for the consideration of that House and by not less than twenty members of the Senate in the case of a motion for the consideration of the Senate, is filed with the Speaker of the appropriate House.

(3) **Consideration of motion.** — Where a motion for the consideration of the House of Commons or Senate is filed as provided in subsection (2) with respect to a particular order referred to in subsection (1), that House shall, not later than the sixty sitting day of that House following the filing of the motion, in accordance with the rules of that House, unless a motion to the like effect has earlier been taken up and considered in the other House, take up and consider the motion.

(4) **Procedure on adoption of motion.** — If a motion taken up and considered in accordance with subsection (3) is adopted, with or without amendments, a message shall be sent from the House adopting the motion informing the other House that the motion has been so adopted and requesting that the motion be concurred in by that other House.

(5) **Procedure in other House.** — Within the first fifteen days next after receipt of a request pursuant to subsection (4) that the House receiving the request is sitting, that House shall, in accordance with the rules thereof, take up and consider the motion that is the subject of the request.

(6) **Where motion adopted and concurred in.** — Where a motion taken up and considered in accordance with this section is adopted by the House in which it was introduced and is concurred in by the other House, the particular order to which the motion relates shall stand revoked but without prejudice to the making of a further order of a like nature to implement a subsequent agreement to which the Government of Canada is a party.

(7) **Where motion not adopted or concurred in.** — Where a motion taken up and considered in accordance with this section is not adopted by the House in which it was introduced or is adopted, with or without amendments, by that House but is not concurred in by the other House, the particular order to which the motion relates comes into force immediately upon the failure to adopt the motion or concur therein, as the case may be.

(8) **Definition of expression “sitting day”.** — For the purpose of subsection (2), a day on which either House of Parliament sits shall be deemed to be a sitting day.

6. Negative resolution of Parliament. — When each House of Parliament enacts rules whereby any regulation made subject to negative resolution of Parliament within the meaning of section 28.1 of the *Interpretation Act* may be made the subject of a resolution of both Houses of Parliament introduced and passed in accordance with the rules of those Houses, section 5 of this Act is thereupon repealed and an order made thereafter under subsection 4(1) is an order made subject to negative resolution of Parliament within the meaning of section 28.1 of the *Interpretation Act*.

CONSEQUENTIAL AMENDMENT

7. Paragraphs 2(c), (d) and (e) of *The Quebec Boundaries Extension Act, 1912* and the words “upon the following terms and conditions and subject to the following provisions:—” immediately preceding those paragraphs are repealed.

INCONSISTENT LAWS

8. Inconsistency or conflict. — Where there is any inconsistency or conflict between this Act and the provisions of any other law applying to the Territory, this Act prevails to the extent of the inconsistency or conflict.

APPROPRIATION

9. Payments out of C.R.F. — There shall be paid out of the Consolidated Revenue Fund such sums as may be required to meet the monetary obligations of Canada under section 25 of the Agreement.

REPORT TO PARLIAMENT

10. Annual report. — The Minister of Indian Affairs and Northern Development shall, within sixty days after the first day of January of every year including and occurring between the years 1978 and 1988, submit to the House of Commons a report on the implementation of the provisions of this Act for the relevant period.

COMMENCEMENT

11. Coming into force. — This Act shall come into force on a day to be fixed by proclamation.

NUNAVUT LAND CLAIMS AGREEMENT ACT

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NUNAVUT LAND CLAIMS AGREEMENT ACT

S.C. 1993, c. 29

An Act respecting an Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada

Preamble. — WHEREAS the Inuit of the Nunavut Settlement Area have asserted an aboriginal title to that Area based on their traditional and current use and occupation of the lands, waters and land-fast ice therein in accordance with their own customs and usages;

WHEREAS the *Constitution Act, 1982* recognizes and affirms the existing aboriginal and treaty rights of the aboriginal peoples of Canada;

WHEREAS Her Majesty the Queen in right to Canada and the Inuit of the Nunavut Settlement Area have negotiated an Agreement based on and reflecting the following objectives:

to provide for certainty and clarity of rights to ownership and use of lands and resources and of rights for Inuit to participate in decision-making concerning the use, management and conservation of land, water and resources, including the offshore,

to provide Inuit with wildlife harvesting rights and rights to participate in decision-making concerning wildlife harvesting,

to provide Inuit with financial compensation and means of participating in economic opportunities,

to encourage self-reliance and the cultural and social well-being of Inuit;

WHEREAS Her Majesty the Queen in right of Canada and the Inuit of the Nunavut Settlement Area, through their duly mandated representatives, have entered into the Agreement through which Inuit shall receive defined rights and benefits in exchange for the surrender of certain claims, rights, title and interests, based on their assertion of an aboriginal title;

WHEREAS the Agreement provides that it will be a land claims agreement within the meaning of section 35 of the *Constitution Act, 1982*;

WHEREAS the Inuit of the Nunavut Settlement Area have ratified the Agreement in accordance with the provisions of the Agreement;

AND WHEREAS the ratification by Her Majesty under Article 36 of the Agreement requires the enactment by Parliament of a statute ratifying the Agreement;

NOW, THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

1. Short title. — This Act may be cited as the *Nunavut Land Claims Agreement Act*.

INTERPRETATION

2. Definitions. — In this Act,

“Agreement”. — “Agreement” means the land claims agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada, signed on May 25, 1993, and tabled in the House of Commons for the Minister of Indian Affairs and Northern Development on May 26, 1993, and includes any amendments to that agreement made pursuant to the agreement;

“Nunavut Settlement Area”. — “Nunavut Settlement Area” means the area described in section 3.1.1 of the Agreement.

HER MAJESTY

3. Binding on Her Majesty. — This Act is binding on Her Majesty in right of Canada or a province.

AGREEMENT

4. (1) Agreement. — The Agreement is hereby ratified, given effect and declared valid.

(2) Idem. — For greater certainty, the Agreement is binding on all persons and bodies that are not parties to the Agreement.

(3) Idem. — For greater certainty, any person or body on which the Agreement confers a right, privilege, benefit or power or imposes a duty or liability may exercise the right, privilege, benefit or power, shall perform the duty or is subject to the liability, to the extent provided for by the Agreement.

5. No merger. — The rights and benefits of the Inuit of the Nunavut Settlement Area under the Agreement do not merge in this Act or any other law.

6. (1) Inconsistency with Agreement. — In the event of an inconsistency or conflict between the Agreement and any law, including this Act, the Agreement prevails to the extent of the inconsistency or conflict.

(2) Inconsistency with Act. — In the event of an inconsistency or conflict between this Act and any other law, this Act prevails to the extent of the inconsistency or conflict.

7. Deposit. — The Minister of Indian Affairs and Northern Development shall cause a certified copy of the Agreement and any amendments to the Agreement to be deposited in

(a) the National Archives of Canada;

(b) the library of the Department of Indian Affairs and Northern Development that is situated in the National Capital Region;

(c) the legislative library of the territorial government that has jurisdiction over the Nunavut Settlement Area; and

(d) such other places as the Minister considers advisable.

8. Orders and regulations. — The Governor in Council may make such orders and regulations as are necessary for the purpose of carrying out any of the provisions of the Agreement.

APPROPRIATION

9. Appropriation. — There shall be paid out of the Consolidated Revenue Fund the sums required to meet the monetary obligations of Her Majesty under Articles 25 and 29 of the Agreement that arise after the coming into force of this Act.

NUNAVUT WILDLIFE MANAGEMENT BOARD

10. (1) Incorporation of Board. — The Nunavut Wildlife Management Board established by the Agreement is hereby constituted as a corporation and, as such, the Board has, for the purposes of carrying out its functions under the Agreement, the capacity, rights, powers and privileges of a natural person.

(2) Not an agent. — The Nunavut Wildlife Management Board is not an agent of Her Majesty in right of Canada.

11. Head office. — The head office of the Nunavut Wildlife Management Board shall be in Iqaluit or in such other place in the Nunavut Settlement Area as the Governor in Council may designate.

12. Remuneration of members. — The remuneration of the members of the Nunavut Wildlife Management Board shall be set by the Governor in Council.

COMING INTO FORCE

13. Coming into force. — This Act shall come into force on December 31, 1993 or such earlier date as may be fixed by order of the Governor in Council.

WESTERN ARCTIC (INUVIALUIT) CLAIMS SETTLEMENT ACT

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WESTERN ARCTIC (INUVIALUIT) CLAIMS SETTLEMENT ACT

S.C. 1984, c. 24, as am. S.C. 1988, c. 16, s. 1

An Act to approve, give effect to and declare valid the Agreement between the Committee for Original Peoples' Entitlement, representing the Inuvialuit of the Inuvialuit Settlement Region, and the Government of Canada and to amend the National Parks Act in consequence thereof

WHEREAS the Committee for Original Peoples' Entitlement and the Government of Canada have entered into an Agreement respecting certain lands in the Northwest Territories and Yukon Territory in and to which the Inuvialuit have claimed an interest based on traditional use and occupancy;

AND WHEREAS, in exchange for the surrender of that interest, the Government of Canada has assumed certain obligations under the Agreement in favour of the Inuvialuit of the Inuvialuit Settlement Region;

AND WHEREAS the Agreement provides, among other things, for the grant to or the setting aside for the Inuvialuit of certain lands in the Inuvialuit Settlement Region, for the right of the Inuvialuit to hunt, fish, trap and carry on commercial activity within the Inuvialuit Settlement Region in accordance with the regimes established therein, for measures to preserve Inuvialuit cultural identity and values within a changing northern society, to enable the Inuvialuit to be equal and meaningful participants in the northern and national economy and society and to protect and preserve the Arctic wildlife, environment and biological productivity and for the payment to the Inuvialuit of certain compensation;

AND WHEREAS the Agreement further provides, in consideration of the rights and benefits set forth therein, for the surrender by the Inuvialuit of all their native claims, rights, title and interests, whatever they may be, in and to the Territory;

AND WHEREAS the Governments of the Northwest Territories and Yukon Territory have been consulted and have participated in discussions concerning matters affecting them and over which they have jurisdiction in relation to the Agreement;

NOW, THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

1. Short title. — This Act may be cited as the *Western Arctic (Inuvialuit) Claims Settlement Act*.

INTERPRETATION

2. Definitions. — In this Act,

“Agreement”. — “Agreement” means the agreement between the Committee for Original Peoples’ Entitlement, representing the Inuvialuit of the Inuvialuit Settlement Region, and the Government of Canada dated June 5, 1984, tabled in the House of Commons for the Minister of Indian Affairs and Northern Development on June 19, 1984 and recorded as document number 322-7/20 and includes an Amending Agreement;

“Amending Agreement”. — “Amending Agreement” means

- (a) the Amending Agreement between the Inuvialuit Regional Corporation, representing the Inuvialuit, and the Government of Canada, approved by Order in Council P.C. 1985-1144, tabled in the House of Commons for the Minister of Indian Affairs and Northern Development on December 14, 1987 and recorded as document number 332-4/43,
- (b) the Amending Agreement between the Inuvialuit Regional Corporation, representing the Inuvialuit, and the Government of Canada, approved by Order in Council P.C. 1987-26, tabled in the House of Commons for the Minister of Indian Affairs and Northern Development on December 14, 1987 and recorded as document number 332-4/43A,
- (c) the Amending Agreement between the Inuvialuit Regional Corporation, representing the Inuvialuit, and the Government of Canada, dated May 11, 1987, tabled in the House of Commons for the Minister of Indian Affairs and Northern Development on December 14, 1987 and recorded as document number 332-4/43B, and
- (d) any other Amending Agreement made pursuant to subsection 3(13) of the Agreement;

“Territory”. — “Territory” means the Northwest Territories, Yukon Territory and adjacent offshore areas, not forming part of the Northwest Territories or Yukon Territory, within the sovereignty or jurisdiction of Canada. 1988, c. 16, s. 1.

AGREEMENT

3. (1) Agreement approved. — The Agreement is hereby approved, given effect and declared valid.

(2) Conferral of rights and benefits. — On the extinguishment of the native claims, rights, title and interests referred to in subsection (3), the beneficiaries under the Agreement shall have the rights, privileges and benefits set out in the Agreement, including the land title provided by subsections 7(1) and (2) of the Agreement.

(3) Extinguishment of claims. — All native claims, rights, title and interests, whatever they may be, in and to the Territory, of all Inuvialuit, wherever they may be, are hereby extinguished, but nothing in this Act prejudices the rights of such persons as Canadian citizens and they shall continue to be entitled to all of the rights and benefits of all other citizens as well as to those resulting from their status as aboriginal people of Canada and from other legislation applicable to them from time to time.

(4) Exemption from taxation. — The financial compensation provided by the Government of Canada pursuant to section 15 of the Agreement and the funds provided by the Government of Canada pursuant to subsections 16(8) and 17(3) of the Agreement are exempt from taxation in the manner and to the extent set out in that section and those subsections, respectively.

(5) Regulations. — The Governor in Council may make such regulations as are necessary

for the purpose of carrying out the Agreement or for giving effect to any of the provisions thereof.

CONSTRUCTION

4. Inconsistency or conflict. — Where there is any inconsistency or conflict between this Act or the Agreement and the provisions of any other law applying to the Territory, this Act or the Agreement prevails to the extent of the inconsistency or conflict.

5. Construction. — Nothing in this Act or the Agreement shall be interpreted as granting any rights, privileges or benefits in respect of any area beyond the limits of the sovereignty or jurisdiction of Canada.

APPROPRIATION

6. Payments out of C.R.F. — There shall be paid out of the Consolidated Revenue Fund such sums as may be required to meet the monetary obligations of Canada under section 15 and subsections 16(8) and 17(3) of the Agreement.

CONSEQUENTIAL AMENDMENT

National Parks Act

7. The schedule to the *National Parks Act* is amended by adding thereto the following Part:

“PART XI NATIONAL PARK IN YUKON TERRITORY

(1) NORTHERN YUKON NATIONAL PARK

(All latitudes and longitudes referred to herein are determined according to North American Datum of 1927 and all topographical features are according to National Topographic Series Maps 117B/9, 117A/12, 117A/11, 117A/14E and W., 117D/3E and W., 117D/6E and W., 117D/5E, 117D/11W, 117D/12W, 117D/12W Herschel, and 117C/9E, 117C/9W produced at a scale of 1:50,000 by the Department of Energy, Mines and Resources at Ottawa.)

That certain parcel of land in or near the Yukon Territory being more particularly described as follows:

Commencing at the point of intersection of the Canada-United States International Boundary at monument number 26 of said boundary and the line of watershed separating the streams flowing into the Porcupine River System from those flowing into the Beaufort Sea;

Thence generally easterly following said line of watershed to triangulation station Pete 51-A, number 568051, having a latitude of 68°37'17.08385" and a longitude of 139°44'37.86856", said station established by Geodetic Survey of the said Department;

Thence due north along said longitude 139°44'37.86856" to its intersection with the right shoreline of Babbage River;

Thence generally northeasterly following said right shoreline or eastern shoreline of said

river to Phillips Bay in the Beaufort Sea, said right shoreline or eastern shoreline extending to the low water mark of said Phillips Bay at approximate latitude $69^{\circ}14'55''$ and approximate longitude $138^{\circ}26'20''$;

Thence southwesterly and generally northwesterly following said low water mark to its intersection with the most northerly position of Catton Point;

Thence northwesterly in a straight line, in the Workboat Passage between Herschel Island and the mainland, to the low water mark at the most easterly position of an unnamed island lying southerly of Avadlek Spit, said position being at approximate latitude $69^{\circ}22'20''$ and approximate longitude $139^{\circ}18'40''$;

Thence westerly following said low water mark on the northerly said of said unnamed island, continuing westerly across the waters and following the low water marks on the north sides of the other unnamed islands leading towards Nunaluk Spit;

Thence generally westerly following said low water mark on the north side of said Nunaluk Spit and the coast of the Beaufort Sea to its intersection with the Canada-United States International Boundary;

Thence south along said International Boundary to the point of commencement;
said parcel including all shoals, islands, sandbars and spits that may be periodically exposed at low tide within 3.5 kilometres of the shore and all islands, sandbars and spits lying within Phillips Bay, but not including Herschel Island and its sandbars, spits and immediately adjoining islets. Reserving out of said described parcel, that tract of land situated at Komakuk Beach on the shore of the Beaufort Sea at about 30 kilometres east of the Canada-United States International Boundary;

Said tract of land having its artificial boundaries fixed from triangulation station Bagnall Number 55812 established by Geodetic Surveys Division of the Surveys and Mapping Branch, Department of Energy, Mines and Resources at Ottawa, having a latitude of $69^{\circ}35'37.3054''$ and a longitude of $140^{\circ}10'47.8919''$;

The south boundary of said tract of land being a straight line running east-west and at a distance of 1175 metres south of said station;

The east boundary being a straight line running due north from a point on said south boundary to the low water mark of the Beaufort Sea, said boundary being at a distance of 1175 metres due east of said station;

The west boundary being a straight line running due north from a point on said south boundary to the low water mark of said Beaufort Sea, said boundary being at a distance of 960 metres due west from said station;

The north boundary being the low water mark of said Beaufort Sea."

COMMENCEMENT

8. Coming into force. — This Act shall come into force on a day to be fixed by proclamation.

SECHELT INDIAN BAND SELF-GOVERNMENT ACT

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SECHELT INDIAN BAND SELF-GOVERNMENT ACT

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SECHELT INDIAN BAND SELF-GOVERNMENT ACT

S.C. 1986, c. 27

An act relating to self-government for the Sechelt Indian Band

Preamble. — WHEREAS Parliament and the government of Canada are committed to enabling Indian bands that wish to exercise self-government on lands set apart for those bands to do so;

AND WHEREAS the members of the *Indian Act* Sechelt band, in a referendum held on March 15, 1986, approved of

(a) the enactment of legislation substantially as set out in this Act for the purpose of enabling the Sechelt Band to exercise self-government over its lands, and

(b) the transfer by Her Majesty in right of Canada to the Sechelt Indian Band of fee simple title in all Sechelt reserve lands, recognizing that the Sechelt Indian Band would assume complete responsibility, in accordance with this Act, for the management, administration and control of all Sechelt land;

NOW THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

1. **Short title.** — This Act may be cited as the *Sechelt Indian Band Self-Government Act*.

INTERPRETATION

2. (1) **Definitions.** — In this Act

“**Band**”. — “Band” means the Sechelt Indian Band established by subsection 5(1);

“**Council**”. — “Council” means the Sechelt Indian Band Council referred to in section 8;

“**District**”. — “District” means the Sechelt Indian Government District recognized by section 17;

“**District Council**”. — “District Council” means the Sechelt Indian Government District Council established by subsection 19(1);

“**Minister**”. — “Minister” means the Minister of Indian Affairs and Northern Development;

“**Sechelt lands**”. — “Sechelt lands” means

(a) lands transferred to the Band under section 23, and

(b) lands that are declared by the Governor in Council and the Lieutenant-Governor in Council of British Columbia to be the Sechelt lands for the purposes of this Act.

(2) For greater certainty, Sechelt lands do not include lands described in the definition “Sechelt lands” in subsection (1) where the lands have been sold or the title to the lands has been otherwise transferred.

3. **Aboriginal rights.** — For greater certainty, nothing in this Act shall be construed so

as to abrogate or derogate from any existing aboriginal or treaty rights of the members of the Sechelt Indian Band, or any other aboriginal peoples of Canada, under section 35 of the *Constitution Act, 1982*.

PURPOSES OF ACT

4. Purposes. — The purposes of this Act are to enable the Sechelt Indian Band to exercise and maintain self-government on Sechelt lands and to obtain control over and the administration of the resources and services available to its members.

SECHELT INDIAN BAND

5. (1) Creation of Band. — The Sechelt Indian Band is hereby established to replace the *Indian Act* Sechelt band.

(2) *Indian Act* Sechelt band ceases to exist. — The *Indian Act* Sechelt band ceases to exist, and all its rights, titles, interests, assets, obligations and liabilities, including those of its band council, vest in the Sechelt Indian Band established under subsection (1).

CAPACITY AND POWERS OF BAND

6. Capacity of Band. — The Band is a legal entity and has, subject to this Act, the capacity, rights, powers and privileges of a natural person and, without restricting the generality of the foregoing, may

- (a) enter into contracts or agreement;
- (b) acquire and hold property or any interest therein, and sell or otherwise dispose of that property or interest;
- (c) expend or invest moneys;
- (d) borrow money;
- (e) sue or be sued; and
- (f) do such other things as are conducive to the exercise of its rights, powers and privileges.

7. Band Subject to its Constitution. — The powers and duties of the Band shall be carried out in accordance with its constitution.

SECHELT INDIAN BAND COUNCIL

8. Sechelt Indian Band Council. — The Sechelt Indian Band Council shall be the governing body of the Band, and its members shall be elected in accordance with the constitution of the Band.

9. Band to act through Council. — The Band shall act through the Council in exercising its powers and carrying out its duties and functions.

BAND CONSTITUTION

10. (1) Elements of constitution. — The constitution of the Band shall be in writing and may

- (a) establish the composition of the Council, the term of office and tenure of its members and procedures relating to the election of Council members;
- (b) establish the procedures or processes to be followed by the Council in exercising the Band's powers and carrying out its duties;
- (c) provide for a system of financial accountability of the Council to the members of the Band, including audit arrangements and the publication of financial reports;
- (d) include a membership code for the Band;
- (e) establish rules and procedures relating to the holding of referenda referred to in section 12 or subsection 21(3) or provided for in the constitution of the Band;
- (f) establish rules and procedures to be followed in respect of the disposition of rights and interests in Sechelt lands;
- (g) set out specific legislative powers of the Council selected from among the general classes of matters set out in section 14; and
- (h) provide for any other matters relating to the government of the Band, its members or Sechelt lands.

(2) **Membership code.** — A membership code established in the constitution of the Band shall respect rights to membership in the *Indian Act* Sechelt band acquired under the *Indian Act* immediately prior to the establishment of that code.

11. (1) Constitution declared in force. — The Governor in Council may, on the advice of the Minister, by order, declare that the constitution of the Band is in force, if

- (a) the constitution includes or provides for the matters set out in paragraphs 10(1)(a) to (f);
- (b) the constitution has the support of a majority of the electors of the *Indian Act* Sechelt band or of the Sechelt Indian Band; and
- (c) the Governor in Council approves the constitution.

(2) **Referendum.** — The support of a majority of the electors of the *Indian Act* Sechelt band or of the Sechelt Indian Band shall, for the purposes of this section, be established by a referendum held in accordance with the *Indian Referendum Regulations*.

AMENDMENT TO BAND CONSTITUTION

12. Amendment to constitution. — The Governor in Council may, on the advice of the Minister, by order, declare in force an amendment to the constitution of the Band if the amendment has been approved in a referendum held in accordance with the constitution of the Band and the Governor in Council approves the amendment.

PUBLICATION OF CONSTITUTION AND AMENDMENTS

13. Publication. — The Minister shall cause to be published in the *Canada Gazette* the constitution or any amendment thereto forthwith on issuing an order declaring the constitution or amendment in force under this Act.

LEGISLATIVE POWERS OF COUNCIL

14. (1) Legislative powers of Council. — The Council has, to the extent that it is authorized by the constitution of the Band to do so, the power to make laws in relation to matters coming within any of the following classes of matters;

- (a) access to and residence on Sechelt lands;
- (b) zoning and land use planning in respect of Sechelt lands;
- (c) expropriation, for community purposes, of interests in Sechelt lands by the Band;
- (d) the use, construction, maintenance, repair and demolition of buildings and structures on Sechelt lands;
- (e) taxation, for local purposes, of interests in Sechelt lands, and of occupants and tenants of Sechelt land in respect of their interests in those lands, including assessment, collection and enforcement procedures and appeals relating thereto;
- (f) the administration and management of property belonging to the Band;
- (g) education of Band members on Sechelt lands;
- (h) social and welfare services with respect to Band members, including, without restricting the generality of the foregoing, the custody and placement of children of Band members;
- (i) health services on Sechelt lands;
- (j) the preservation and management of natural resources on Sechelt lands;
- (k) the preservation, protection and management of fur-bearing animals, fish and game on Sechelt lands;
- (l) public order and safety on Sechelt lands;
- (m) the construction, maintenance and management of roads and the regulation of traffic on Sechelt lands;
- (n) the operation of businesses, professions and trades on Sechelt lands;
- (o) the prohibition of the sale, barter, supply, manufacture or possession of intoxications on Sechelt lands and any exceptions to a prohibition of possession;
- (p) subject to subsection (2), the imposition on summary conviction of fines or imprisonment for the contravention of any law made by the Band government;
- (q) the devolution, by testate or intestate succession, of real property of Band members on Sechelt lands and personal property of Band members ordinarily resident on Sechelt lands;
- (r) financial administration of the Band;
- (s) the conduct of Band elections and referenda;
- (t) the creation of administrative bodies and agencies to assist in the administrative of the affairs of the Band; and
- (u) matters related to the good government of the Band, its members or Sechelt lands.

(2) **Limit on fine, penalty or imprisonment.** — A law made in respect of the class of matters set out in paragraph (1)(p) may specify a maximum fine or a maximum term of imprisonment or both, but the maximum fine may not exceed two thousand dollars and the maximum term of imprisonment may not exceed six months.

(3) **Laws of British Columbia.** — For greater certainty, the Council has the power to adopt any laws of British Columbia as its own law if it is authorized by the constitution to make laws in relation to the subject-matter of those laws.

(4) **Law may require licence or permit.** — A law made by the Council may require the holding of a licence or permit and may provide for the issuance thereof and fees therefor.

LEGISLATIVE POWERS GRANTED BY BRITISH COLUMBIA

15. The Council may exercise any legislative power granted to it by or pursuant to an Act of the legislature of British Columbia.

16. *Statutory Instruments Act* not to apply. — The *Statutory Instruments Act* does not apply to a law enacted by the Council.

SECHELT INDIAN GOVERNMENT DISTRICT

17. Sechelt Indian Government District. — There is hereby recognized the Sechelt Indian Government District, which shall have jurisdiction over all Sechelt lands.

18. Capacity of District. — The District is a legal entity and has the capacity, rights, powers and privileges of a natural person and, without restricting the generality of the foregoing, may

- (a) enter into contracts or agreements;
- (b) acquire and hold property or any interest therein, and sell or otherwise dispose of that property or interest;
- (c) expend or invest moneys;
- (d) borrow money;
- (e) sue or be sued; and
- (f) do such other things as are conducive to the exercise of its rights, powers and privileges.

19. (1) District Council established. — There is hereby established the Sechelt Indian Government District Council, which shall be the governing body of the District.

(2) Composition of District Council. — The District Council shall consist of the members of the Council.

20. District to act through District Council. — The District shall act through the District Council in exercising its powers and carrying out its duties and functions.

21. (1) Coming into force. — Sections 17 to 20 shall come into force in accordance with this section.

(2) Sections 17 to 20 declared in force. — The Governor in Council may, subject to subsection (3), on the advice of the Minister, by order, declare that sections 17 to 20 are in force and transfer any of the powers, duties or functions of the Band or the Council under this Act or the constitution of the Band to the District, except those relating to membership in the Band and the disposition of rights or interests in Sechelt lands.

(3) Conditions for order. — The Governor in Council shall not make an order under subsection (2) unless he is satisfied that

- (a) the legislature of British Columbia has passed legislation respecting the District and the legislation is in force in British Columbia; and
- (b) the transfer of the power specified in the order has been approved in a referendum held in accordance with the constitution of the Band.

(4) Where British Columbia legislation amended. — The Governor in Council may, on the advice of the Minister, by order, transfer any of the powers, duties and functions that were transferred to the District under subsection (2) back to the Band or the Council, as the case may be, if the legislation referred to in paragraph (3)(a) is amended.

(5) Condition for order. — The Governor in Council shall not make an order under

subsection (4) unless he is satisfied that the transfer of powers specified in the order has been approved in a referendum held in accordance with the constitution of the Band.

(6) **Where British Columbia legislation repealed.** — The Governor in Council may, on the advice of the Minister, by order, declare that sections 17 to 20 are no longer in force and transfer the powers, duties and functions that were transferred to the District under subsection (2) back to the Band if the legislation referred to in paragraph (3)(a) is no longer in force.

22. Additional powers of District. — The District may exercise any legislative power granted to it by or pursuant to an Act of the legislature of British Columbia.

TRANSFER OF LANDS

23. (1) Transfer of fee simple title. — The title to all lands that were, immediately prior to the coming into force of this section, reserves, within the meaning of the *Indian Act*, of the *Indian Act* Sechelt band is hereby transferred in fee simple to the Band, subject to the rights, interests and conditions referred to in section 24.

(2) **Definition of “reserves”.** — In subsection (1), “reserves” includes surrendered lands, within the meaning of the *Indian Act*, that have not been sold or the title to which has not been otherwise transferred.

(3) ***Indian Act* Sechelt band rights and interests cease.** — All rights and interests of the *Indian Act* Sechelt band in respect of the lands referred to in subsection (1) cease to exist on the coming into force of this section.

(4) **Letters patent.** — Forthwith on the coming into force of this section the Governor in Council shall cause to be issued under the Great Seal of Canada letters patent confirming the transfer of, and describing, the lands referred to in subsection (1).

24. Limitations. — The fee simple title of the Band in the lands transferred to it under section 23 is subject to

(a) any interests recognized or established by the agreement entered into between Canada and British Columbia on January 26, 1943, relating to the ownership and exploitation of minerals, the *British Columbia Indian Reserves Mineral Resources Act*, being chapter 19 of the Statutes of Canada, 1943-44 and the *Indian Reserves Minerals Resources Act*, being chapter 192 of the Revised Statutes of British Columbia, 1979, all as amended from time to time;

(b) the conditions of conveyance set out in British Columbia Order in Council No. 1036 of July 29, 1938, as amended by British Columbia Order in Council No. 1555 of May 13, 1969, in respect of the lands conveyed to Her Majesty in right of Canada by that Order in Council; and

(c) any rights or interests under a mortgage, lease, occupation permit, certificate of possession or other grant or authorization in respect of the lands that exist on the coming into force of this section.

25. Lands held for use and benefit of Band. — The Band holds the lands transferred to it under section 23 for the use and benefit of the Band and its members.

DISPOSITION OF SECHELT LANDS

26. Disposition of Sechelt lands. — The Band has full power to dispose of any Sechelt lands and any rights or interests therein but shall not do so except in accordance with the procedure established in the constitution of the Band.

REGISTRATION OF SECHELT LANDS

27. (1) Reserve Land Register. — Subject to subsection (2), particulars relating to all transactions respecting Sechelt lands shall be entered in the Reserve Land Register kept under section 21 of the *Indian Act*.

(2) When section not to apply. — This section does not apply with respect to any Sechelt lands that are registered pursuant to section 28.

28. Laws on Registration. — The Council may make laws authorizing the registration, in accordance with the laws of British Columbia, of estates or interests in any Sechelt lands specified in the laws of the Council, and for that purpose may make laws making any laws of British Columbia applicable to those Sechelt lands.

29. (1) Notice. — Where a law is made under section 28, the Council shall forthwith

- (a) cause to be published in a local newspaper of general circulation notice of the law with a legal description of the lands to which it relates; and
- (b) give notice thereof to the Minister, or a person designated by the Minister for that purpose, and provide the Minister or that person with a copy of the law and a survey plan and legal description of the lands to which it relates.

(2) Minister to provide particulars to Council. — The Minister shall forthwith, and in any event not later than thirty days after receipt of notice of a law under subsection (1) in respect of any Sechelt lands,

- (a) cause to be provided to the Council a list of all particulars entered on the Reserve Land Register kept under section 21 of the *Indian Act* in respect of those lands; and
- (b) cause to be sent to any person who appears from the Reserve Land Register to have any interest in those lands, at his latest known address, a notice indicating that

- (i) a law has been made under subsection (1) in respect of those lands, and
- (ii) that person may not request any modification of the Register unless he does so within the time period referred to in subsection (3).

(3) List to be posted. — The Council shall, forthwith on receiving the list referred to in paragraph (2)(a), cause the list or a copy thereof to be posted in a conspicuous place on the lands to which the list relates, and in another conspicuous place within the Sechelt community, and shall indicate thereon that no person may request a modification of the Reserve Land Register unless he does so within thirty days after a date indicated on the list, which date shall be the date on which the list was provided to the Council.

(4) Request for modification. — Any person may, within the time period referred to in subsection (3), make a request to the Minister for a modification of the Reserve Land Register.

(5) Consideration of request. — The Minister, or a person designated by the Minister for that purpose, shall consider a request under subsection (4) forthwith on receipt, and a decision of the Minister or the designated person on the matter shall be final.

30. (1) Final list of interests. — The Minister shall cause to be prepared, not later than ten days after the expiration of the period referred to in subsection 29(3), a final list of all rights and interests in Sechelt lands in respect of which laws are made under section 28.

(2) Copies to be provided. — The Minister shall cause a copy of every final list prepared under subsection (1) to be provided forthwith to the Council and to an official designated for that purpose by the government of British Columbia.

(3) Final list determinative. — A final list prepared under subsection (1) is for all purposes determinative of all rights and interests in the lands to which it relates as of the time the list is prepared.

SECHELT LANDS

31. Class 24 of Section 91. — For greater certainty, Sechelt lands are lands reserved for the Indians within the meaning of Class 24 of section 91 of the *Constitution Act, 1867*.

MONEYS

32. (1) Moneys. — Moneys held by Her Majesty in right of Canada for the use and benefit of the *Indian Act* Sechelt band shall be transferred to the Band.

(2) Limitation. — Moneys transferred under this section shall be administered in accordance with the constitution and laws of the Band.

FUNDING

33. Agreements between Minister and Band. — The Minister may, with the approval of the Governor in Council, enter into an agreement with the Band under which funding would be provided by the government of Canada to the Band in the form of grants over such period of time, and subject to such terms and conditions as are specified in the agreement.

34. Appropriations. — Any amounts required for the purposes of section 33 shall be paid out of such moneys as may be appropriated by Parliament for those purposes.

APPLICATION OF THE INDIAN ACT

35. (1) Application of *Indian Act*. — Subject to section 36, the *Indian Act* applies, with such modifications as the circumstances require, in respect of the Band, its members, the Council and Sechelt lands except to the extent that the *Indian Act* is inconsistent with this Act, the constitution of the Band or a law of the Band.

(2) Indians. — For greater certainty, the *Indian Act* applies for the purpose of determining which members of the Band are “Indians” within the meaning of that Act.

(3) Taxation provisions. — For greater certainty, section 87 of the *Indian Act* applies, with such modifications as the circumstances require, in respect of the Band and its members who are Indians within the meaning of that Act, subject to any laws made by the Council in relation to the class of matters set out in paragraph 14(1)(e).

36. Declaration that Act not apply. — The Governor in Council may, on the advice of the Minister, by order declare that the *Indian Act* or any provision thereof does not apply to

(a) the Band or its members, or

(b) any portion of Sechelt lands,

and may, on the advice of the Minister, by order revoke any such order.

APPLICATION OF LAWS OF CANADA

37. General laws of Canada applicable to Band. — All federal laws of general application in force in Canada are applicable to and in respect of the Band, its members and Sechelt lands, except to the extent that those laws are inconsistent with this Act.

APPLICATION OF LAWS OF BRITISH COLUMBIA

38. Laws of general application of British Columbia. — Laws of general application of British Columbia apply to or in respect of the members of the Band except to the extent that those laws are inconsistent with the terms of any treaty, this or any other Act of Parliament, the constitution of the Band or a law of the Band.

APPLICATION OF LAWS RELATING TO NATURAL RESOURCES

39. *Indian Oil and Gas Act.* — The *Indian Oil and Gas Act*, as amended from time to time, applies, with such modifications as the circumstances require, in respect of the Band, its members, the Council and Sechelt lands.

40. *British Columbia Indian Reserves Mineral Resources Act.* — For greater certainty, the *British Columbia Indian Reserves Mineral Resources Act*, being chapter 19 of the Statutes of Canada, 1943-44, as amended from time to time, applies in respect of Sechelt lands.

41. *Indian Reserves Mineral Resources Act.* — The *Indian Reserves Mineral Resources Act*, being chapter 192 of the Revised Statutes of British Columbia, 1979, as amended from time to time, applies in respect of Sechelt lands.

APPLICATION OF BY-LAWS

42. Continuation in force of by-laws. — The by-laws of the *Indian Act* Sechelt band that are in force immediately before this Act comes into force remain in force on Sechelt lands that were, at that time, reserves, within the meaning of the *Indian Act*, of the *Indian Act* Sechelt band and in respect of the members of the Band to the extent that the by-laws are consistent with this Act, the constitution of the Band or a law of the Band.

GOVERNOR IN COUNCIL AND MINISTERS

43. Powers, functions and duties in constitution. — The Governor in Council or any Minister of the Crown may exercise any powers and carry out any functions or duties that the Governor in Council or Minister, as the case may be, is authorized under the constitution of the Band to exercise or carry out.

TRANSITIONAL PROVISIONS

44. (1) Existing Council of *Indian Act* Sechelt band. — The council of the *Indian Act* Sechelt band that is in office pursuant to the *Indian Act* immediately before the coming into force of section 5 shall be deemed to be the Council and to have been elected in accordance with the constitution of the Band.

(2) **Term of office.** — The council of the *Indian Act* Sechelt band referred to in subsection (1) shall continue in office as the Council until a new Council has been elected in accordance with the constitution of the Band.

(3) ***Indian Act* applies.** — Any provisions of the *Indian Act* relating to elections of band councils and the qualification of persons to hold office as chief or councillor apply to the council of the *Indian Act* Sechelt band until a new Council has been elected in accordance with the constitution of the Band.

45. (1) Members of *Indian Act* Sechelt band. — The members of the *Indian Act* Sechelt band, immediately before the coming into force of this Act, are the members of the Sechelt Indian band immediately after the coming into force of the Act.

(2) **Membership provisions apply.** — For greater certainty, during any period after this Act comes into force but before the Band constitution comes into force the provisions of the *Indian Act* relating to membership apply in respect of the Sechelt Indian Band.

46. Disposition of Sechelt lands. — For greater certainty, during any period after this Act comes into force but before the constitution of the Band comes into force, the provisions of the *Indian Act* relating to the disposition of rights or interests in reserves within the meaning of that Act, apply in respect of Sechelt lands.

CONSEQUENTIAL AMENDMENTS

Canada Assistance Plan

47. (1) The definition “band” in section 10 of the *Canada Assistance Plan* is amended by striking out the word “or” at the end of paragraph (a) thereof, by adding the word “or” at the end of paragraph (b) thereof and by adding thereto the following paragraph:

“(c) the Band, as defined in the *Sechelt Indian Band Self-Government Act*,”

(2) The definition “council” in section 10 of the said Act is amended by striking out the word “or” at the end of paragraph (a) thereof, by adding the word “or” at the end of paragraph (b) thereof and by adding thereto the following paragraph:

“(c) the “Council”, as defined in the *Sechelt Indian Band Self-Government Act*,”

(3) The definition “reserve” in section 10 of the said Act is amended by striking out the word “or” at the end of paragraph (a) thereof, by adding the word “or” at the end of paragraph (b) thereof and by adding thereto the following paragraph:

“(c) Sechelt lands, as defined in the *Sechelt Indian Band Self-Government Act*.”

Expropriation Act

48. Section 3 of the *Expropriation Act* is amended by adding thereto the following subsection:

“(3) No interest in lands that are “Sechelt lands”, as defined in the *Sechelt Indian Band Self-Government Act*, may be expropriated under this Part without the consent of the Governor in Council.”

Fishing and Recreational Harbours Act

49. The definition “agency” in section 2 of the *Fishing and Recreational Harbours Act* is repealed and the following substituted therefor:

“agency”. — “‘agency’, in relation to a province, includes

- (a) any incorporated or unincorporated city, town, municipality, village, township, rural municipality, regional district administration or local improvement district administration,
- (b) any council of a band within the meaning of the *Indian Act*, and
- (c) the Council, within the meaning of the *Sechelt Indian Band Self-Government Act*,”

Canada Land Surveys Act

50. Paragraph 30(1)(a) of the *Canada Land Surveys Act* is amended by striking out the word “or” at the end of subparagraph (i) thereof, by striking out the word “and” at the end of subparagraph (ii) thereof and substituting therefor the word “or” and by adding thereto the following subparagraph:

- “(iii) Sechelt lands, as defined in the *Sechelt Indian Band Self-Government Act*; and”

Municipal Grants Act, 1980

51. The definition “taxing authority” in subsection 2(1) of the *Municipal Grants Act*, 1980 is amended by striking out the word “or” at the end of paragraph (b) thereof, by adding the word “or” at the end of paragraph (c) thereof and by adding thereto, immediately after paragraph (c) thereof, the following paragraph:

- “(d) the Council within the meaning of the *Sechelt Indian Band Self-Government Act* if it levies and collects a real property tax or a frontage or area tax in respect of Sechelt lands, as defined in that Act,”

National Energy Board Act

52. Subsection 67(3) of the *National Energy Board Act* is amended by striking out the word “or” at the end of paragraph (a) thereof, by adding the word “or” at the end of paragraph (b) thereof and by adding thereto the following paragraph:

- “(c) Sechelt lands, as defined in the *Sechelt Indian Band Self-Government Act*.”

National Housing Act

53. Section 2 of the *National Housing Act* is amended by adding thereto, in alphabetical order within the section, the following definitions:

“Indian”. — “Indian”. — “ means an Indian, as defined in the *Indian Act*;

“Indian band”. — “Indian band” means

- (a) council of the band, as defined in the *Indian Act*,
- (b) band or council as defined in the *Cree-Naskapi (of Quebec) Act*, or
- (c) the Band or the Council, as defined in the *Sechelt Indian Band Self-Government Act*;

“reserve”. — “reserve”, in relation to Indians, means

- (a) a reserve, as defined in the *Indian Act*,
- (b) Category IA land or Category IA-N land as defined in the *Cree-Naskapi (of Quebec) Act*,
- (c) Sechelt lands, as defined in the *Sechelt Indian Band Self-Government Act*,”

54. Subsection 6(4) of the said Act is repealed and the following substituted therefor:

“(4) **Loans to Indians or Bands.** — An approved lender may, subject to and in accordance with regulations of the Governor in Council made under the authority of this subsection, make a loan to an Indian, and Indian band or a group of Indians for the purpose of assisting in the purchase, improvement or construction of a housing project on a reserve, and such loans are insurable in the manner provided by those regulations.”

55. (1) Paragraph 34.1(1)(c) of the said Act is repealed and the following substituted therefor:

“(c) with the consent of the Minister of Indian Affairs and Northern Development, to an Indian resident on a reserve, to a group of Indians each of whom is resident on a reserve or to an Indian band for the purpose of assisting in the repair, rehabilitation or improvement of a family housing unit or of housing accommodation of the hostel or dormitory type on a reserve or for the purpose of assisting in the conversion, as described in paragraph (b), of an existing residential building on a reserve.”

(2) Subsection 34.1(4) of the said Act is repealed.

56. Subsection 34.86(1) of the said Act is repealed.

57. Paragraphs (c) to (e) of the definition “eligible contribution recipient” in subsection 56.1(1) of the said Act are repealed and the following substituted therefor:

- “(c) an Indian band, or
- (d) a group of Indians each of whom resides on a reserve.”

58. Section 59 of the said Act is repealed and the following substituted therefor:

“59. **Loans to Indians.** — The Corporation may, subject to and in accordance with regulations of the Governor in Council, make loans to Indians for the purpose of assisting in the purchase, improvement or construction of housing projects on reserves.”

Privacy Act

59. Subsection 8(6) of the *Privacy Act* is amended by striking out the word “or” at the end of paragraph (a) thereof, by adding the word “or” at the end of paragraph (b) thereof and by adding thereto the following paragraph:

- “(c) the Band, as defined in the *Sechelt Indian Band Self-Government Act*.”

Railway Act

60. Subsection 133(1) of the *Railway Act* is amended by striking out the word “or” at the end of paragraph (a) thereof, by adding the word “or” at the end of paragraph (b) thereof and by adding thereto, immediately after paragraph (b) thereof, the following paragraph:

“(c) Sechelt lands, as defined in the *Sechelt Indian Band Self-Government Act*.”

Commencement

61. Coming into force. — This Act or any provision thereof shall come into force on a day or days to be fixed by proclamation.

SECHELT INDIAN GOVERNMENT DISTRICT ENABLING ACT

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SECHELT INDIAN GOVERNMENT DISTRICT ENABLING ACT

S.B.C. 1987, c. 16, as
am. 1988, c. 41, s. 2

1. (1) **Interpretation.** — In this Act

“**Advisory Council**”. — “Advisory Council” means the Advisory Council established under section 2;

“**District Council**”. — “District Council” means the Sechelt Indian Government District Council established by the *Sechelt Indian Band Self-Government Act* (Canada);

“**municipal benefit**”. — “municipal benefit” includes a service, a grant of money, a right or eligibility to participate in a program, and any other benefit available to a municipality under an enactment;

“**Proclamation**”. — “Proclamation” means a Proclamation made pursuant to this Act and issued under the Great Seal of the Province;

“**referendum**”. — “referendum” means a referendum held in accordance with the constitution of the Sechelt Indian Band established by the *Sechelt Indian Band Self-Government Act* (Canada);

“**Sechelt Indian Government District**”. — “Sechelt Indian Government District” means the Sechelt Indian Government District established by the *Sechelt Indian Band Self-Government Act* (Canada).

(2) Nothing in this Act shall be construed as a conferral on or authorizing the conferral on the District Council or Advisory Council of legislative powers.

2. (1) **Status of District Council and establishment of Advisory Council.** — The Lieutenant Governor in Council may by Proclamation issued under the Great Seal of the Province, recognize the District Council as the governing body of the Sechelt Indian Government District.

(2) Where a Proclamation is issued, the Lieutenant Governor in Council shall by regulation establish an Advisory Council to represent all the residents of the Sechelt Indian Government District.

3. **Laws and bylaws.** — Where in the exercise of its powers of self-government conferred by the *Sechelt Indian Band Self-Government Act* (Canada) the District Council enacts laws or bylaws that a municipality has power to enact under an Act of the Province, those laws or bylaws shall, for the purposes of this Act, be deemed to have been enacted under the authority of that Act of the Province.

4. (1) **Municipal benefits.** — The Lieutenant Governor in Council may by regulation declare that the District Council is entitled to or eligible for municipal benefits specified in the regulation.

(2) The Lieutenant Governor in Council may prescribe requirements to be met by the District Council as a condition of being entitled to or eligible for a municipal benefit and, where he considers it necessary or desirable may, for this purpose, make applicable a provision of the enactment.

(3) The Lieutenant Governor in Council may by regulation

(a) vary or withdraw the entitlement or eligibility of the District Council to or for a municipal benefit, or

(b) specify an additional municipal benefit to which the District Council shall be entitled or for which it shall be eligible.

5. Suspension of taxation under *Municipal Act* and *Taxation (Rural Area) Act*. —

Where a Proclamation has been issued and the District Council desires to provide services in respect of the Sechelt Indian Government District of a nature similar to services provided by a municipality, the Lieutenant Governor in Council may by regulation, for the purpose of assisting the District Council to provide those services, suspend, to the extent and subject to conditions he considers necessary or desirable, the liability of persons to taxation in respect of their interests in lands in the Sechelt Indian Government District under the following Acts:

(a) *Municipal Act*;

(b) *Taxation (Rural Area) Act*;

5.1 Approving Officers. — A person appointed as an approving officer by the Sechelt Indian Government District may, with respect to land in that district, exercise the jurisdiction conferred on an approving officer by the *Land Title Act*, a regulation under it or by any other enactment. 1988, c. 41, s. 2.

6. (1) Repeal and continuation. — This Act is repealed on June 30, 2006.

(2) Subsection (1) does not apply where the Lieutenant Governor in Council

(a) is satisfied that a referendum held during the year 2004, approves the continuation of this Act in force after June 30, 2006, and

(b) prescribes a further period during which this Act continues in force, and this Act is repealed on the expiration of the period so prescribed.

7. (1) Regulations. — Nothing in this section limits the scope of section 2(2), 4 or 5, and nothing in those sections limits the scope of this section.

(2) The Lieutenant Governor in Council may make regulations including regulations considered necessary or advisable to

(a) facilitate the exercise and discharge by the District Council of powers, duties and functions analogous to those of a municipality,

(b) delegate or entrust to the District Council administrative duties, functions and responsibilities that the Lieutenant Governor in Council considers desirable and consistent with the local administration of municipal services,

(c) for the purpose of assisting the District Council to exercise and discharge a power, duty, function or responsibility, make applicable in respect of the District Council a provision of an enactment,

- (d) appoint or provide for the appointment of the initial members of the Advisory Council and for election of their successors,
- (e) authorize and empower the Advisory Council to receive from the District Council, and to expend, money required for the conduct of elections and for the conduct of the business of the Advisory Council, and
- (f) confer on the Advisory Council any powers, duties and functions considered necessary or advisable to carry out its purpose as an advisory board to the District Council.

8. Commencement. — This Act comes into force by regulation of the Lieutenant Governor in Council.

NORTHWEST TERRITORIES ACT

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NORTHWEST TERRITORIES ACT

R.S.C. 1985, c. N-27

An Act respecting the Northwest Territories

PART I

GOVERNMENT

Legislative Powers of Commissioner in Council

18. (1) Game ordinances in respect of Indians and Inuit. — Notwithstanding section 17 but subject to subsection (3), the Commissioner in Council may make ordinances for the government of the Territories in relation to the preservation of game in the Territories that are applicable to and in respect of Indians and Inuit.

(2) Presumption in respect of Indians and Inuit. — Any ordinances made by the Commissioner in Council in relation to the preservation of game in the Territories, unless the contrary intention appears therein, are applicable to and in respect of Indians and Inuit.

(3) Hunting for food. — Nothing in subsections (1) and (2) shall be construed as authorizing the Commissioner in Council to make ordinances restricting or prohibiting Indians or Inuit from hunting for food, on unoccupied Crown lands, game other than game declared by the Governor in Council to be game in danger of becoming extinct.

Laws Applicable to the Territories

22. (2) Laws applicable to Inuit. — All laws of general application in force in the Territories are, except where otherwise provided, applicable to and in respect of Inuit in the Territories.

PART III

GENERAL

Reindeer

45. Regulations respecting reindeer. — The Governor in Council may make regulations

(a) authorizing the Minister to enter into agreements with Indians or Inuit, or persons with Indian or Inuit blood living the life of an Indian or Inuk, for the herding of reindeer that are the property of Her Majesty, which agreements, if deemed advisable by the Minister, shall include provisions for the transfer of such portions of the herds as may be therein specified to the herders on satisfactory completion of the agreements;

(b) for the control, management, administration and protection of reindeer in the Territories, whether they are the property of Her Majesty or otherwise;

(c) for the sale of reindeer and the slaughter or other disposal of surplus reindeer and the carcasses thereof; and

(d) controlling or prohibiting the transfer or shipment by any means of reindeer or their carcasses or parts thereof, whether they are the property of Her Majesty or otherwise, from any place in the Territories to any other place within or outside the Territories.

46. Seizure. — Where a peace officer or any person who is a game officer under any ordinance believes on reasonable grounds that any reindeer has been killed, that any reindeer or part thereof has been taken, transferred, shipped or had in possession in contravention of the regulations or that any vessel, vehicle, aeroplane, firearm, trap or other article or thing has been used in contravention of the regulations, he may, in the Territories, without a warrant, effect seizure thereof.

47. Forfeiture. — Every seizure made under section 46 shall be reported as soon as practicable to a justice of the peace who may, on satisfying himself that the reindeer or part thereof or the vessel, vehicle, aeroplane, firearm, trap or other article or thing has been taken, dealt with or used in contravention of the regulations, declare it to be forfeited to Her Majesty and, on that declaration, it is forfeited.

48. Application of the *Game Export Act*. — The *Game Export Act* applies to reindeer or the carcasses or part thereof and, for that purpose, under that Act

- (a) “game” shall be deemed to include reindeer, carcasses or part thereof;
- (b) “killed” shall be deemed to include the taking or capture of or dealing in live reindeer; and
- (c) “export permit” shall be deemed to include a permit or licence issued under the regulations made pursuant to section 45 of this Act.

YUKON ACT

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YUKON ACT

R.S.C. 1985, c. Y-2

An Act respecting the Yukon Territory

PART I

GOVERNMENT

Legislative Powers of Commissioner in Council

19. (1) Game ordinances in respect of Indians and Inuit. — Notwithstanding section 18 but subject to subsection (3), the Commissioner in Council may make ordinances for the government of the Territory, in relation to the preservation of game in the Territory, that are applicable to and in respect of Indians and Inuit.

(2) Presumption in respect of Indians and Inuit. — Any ordinances made by the Commissioner in Council in relation to the preservation of game in the Territory, unless the contrary intention appears therein, are applicable to and in respect of Indians and Inuit.

(3) Hunting for food. — Nothing in subsections (1) and (2) shall be construed as authorizing the Commissioner in Council to make ordinances restricting or prohibiting Indians or Inuit from hunting for food, on unoccupied Crown lands, game other than game declared by the Governor in Council to be game in danger of becoming extinct.

Laws Applicable to Territory

23. (2) Laws applicable to Inuit. — All laws of general application in force in the Territory are, except where otherwise provided, applicable to and in respect of Inuit in the Territory.

PART III

GENERAL

Reindeer

48. Regulations respecting reindeer. — The Governor in Council may make regulations

- (a) authorizing the Minister to enter into agreements with Indians or Inuit, or persons with Indian or Inuit blood living the life of an Indian or Inuk, for the herding of reindeer that are the property of Her Majesty, which agreements, if deemed advisable by the Minister, shall include provisions for the transfer of such portions of the herds as may be therein specified to the herders on satisfactory completion of the agreements;
- (b) for the control, management, administration and protection of reindeer in the Territory, whether they are the property of Her Majesty or otherwise;
- (c) for the sale of reindeer and the slaughter or other disposal of surplus reindeer and the carcasses thereof; and

(d) controlling or prohibiting the transfer or shipment by any means of reindeer or their carcasses or parts thereof, whether they are the property of Her Majesty or otherwise, from any place in the Territory to any other place within or outside the Territory.

49. Seizure. — Where a peace officer or any person who is a game officer under any ordinance believes on reasonable grounds that any reindeer has been killed, that any reindeer or part thereof has been taken, transferred, shipped or had in possession in contravention of the regulations or that any vessel, vehicle, aeroplane, firearm, trap or other article or thing has been used in contravention of the regulations, he may, in the Territory, without a warrant, effect seizure thereof.

50. Forfeiture. — Every seizure made under section 49 shall be reported as soon as practicable to a justice of the peace who may, on satisfying himself that the reindeer or part thereof or the vessel, vehicle, aeroplane, firearm, trap or other article or thing has been taken, dealt with or used in contravention of the regulations, declare it to be forfeited to Her Majesty and, on that declaration, it is forfeited.

51. Application of the *Game Export Act*. — The *Game Export Act* applies to reindeer or the carcasses or part thereof and, for that purpose, under that Act

- (a) “game” shall be deemed to include reindeer, carcasses or part thereof;
- (b) “killed” shall be deemed to include the taking or capture of or dealing in live reindeer; and
- (c) “export permit” shall be deemed to include a permit or licence issued under the regulations made pursuant to section 48 of this Act.

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FISHERIES ACT

R.S.C. 1985, c. F-14

An Act respecting fisheries

MARINE PLANTS

48. Saving. — Nothing in sections 44 to 47 shall be construed as preventing traditional harvesting of marine plants by aborigines for their use as food.

MIGRATORY BIRDS CONVENTION ACT

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MIGRATORY BIRDS CONVENTION ACT

R.S.C. 1985, c. M-7, as am. R.S.C. 1985, c. 31 (1st Supp.), s. 38; c. 40 (4th Supp.), s. 2 (Schedule, item 6); 1992, c. 1, s. 96

An Act to implement a Convention between His Majesty and the United States of America for the protection of migratory birds in Canada and the United States

SHORT TITLE

1. **Short title.** — This Act may be cited as the *Migratory Birds Convention Act*.

INTERPRETATION

2. **Definitions.** — In this Act,

“**close season**”. — “close season” means the period during which any species of migratory game bird, migratory insectivorous bird or migratory nongame bird is protected by this Act or the regulations;

“**Convention**”. — “Convention” means the Convention of August 16, 1916, set out in the schedule;

“**migratory game birds**”. — “migratory game birds” means

- (a) Anatidae or waterfowl, including brant, wild ducks, geese and swans,
- (b) Gruidae or cranes, including little brown, sandhill and whooping cranes,
- (c) Rallidae or rails, including coots, gallinules and sora and other rails,
- (d) Limicolae or shorebirds, including avocets, curlew, dowitchers, godwits, knots, oyster catchers, phalaropes, plovers, titmice, thrushes, vireos, warblers, waxwings, whippoorwills, woodpeckers and wrens, and all other perching birds that feed entirely or chiefly on insects;
- (e) Columbidae or pigeons, including doves and wild pigeons;

“**migratory insectivorous birds**”. — “migratory insectivorous birds” means bobolinks, catbirds, chickadees, cuckoos, flickers, fly-catchers, grosbeaks, humming birds, kinglets, martins, meadow larks, nighthawks or bull bats, nuthatches, orioles, robins, shrikes, swallows, swifts, tanagers, titmice, thrushes, vireos, waxwings, whippoorwills, woodpeckers and wrens, and all other perching birds that feed entirely or chiefly on insects;

“**migratory nongame birds**”. — “migratory nongame birds” means auks, auklets, bitterns, fulmars, gannets, grebes, guillemots, gulls, herons, jaegers, loons, murre, petrels, puffins, shearwaters and terns;

“**Minister**”. — “Minister” means the Minister of the Environment or, in respect of any matter related to the Northern Pipeline referred to in the *Northern Pipeline Act*, the member of the Queen’s Privy Council for Canada designated as the Minister for the purposes of that Act.

CONVENTION

3. Confirmation of Convention. — The Convention is hereby sanctioned, ratified and confirmed.

REGULATIONS

4. (1) Regulations. — The Governor in Council may make such regulations as are deemed expedient to protect the migratory game birds, migratory insectivorous birds and migratory nongame birds that in habit Canada during the whole or any part of the year.

(2) Provisions of regulations. — Subject to the provisions of the Convention, the regulations made under subsection (1) may provide

(a) the periods in each year or the number of years during which any migratory game birds, migratory insectivorous birds or migratory nongame birds shall not be killed, captured, injured, taken, molested or sold, or their nests or eggs injured, destroyed, taken or molested;

(b) for limiting the number of migratory game birds that may be taken by a person in any specified time during the season when the taking of those birds is legal, and providing the manner in which those birds may then be taken and the appliances that may be used therefor;

(b) the periods in each year during which a person may have in possession migratory game birds killed during the season when the taking of those birds was legal;

(d) for the granting of permits to kill or take migratory game birds, migratory insectivorous birds or migratory nongame birds, or their nests or eggs;

(e) for the prohibition of the shipment or export of migratory game birds, migratory insectivorous birds or migratory nongame birds or their eggs from any province during the close season in that province, and the conditions on which international traffic in those birds shall be carried on;

(f) for the prohibition of the killing, capturing, taking, injuring or molesting of migratory game birds, migratory insectivorous birds or migratory nongame birds, or the taking, injuring, destruction or molestation of their nests or eggs, within any prescribed area, and for the control and management of that area; and

(g) for any other purpose that may be deemed expedient for carrying out the intentions of this Act and the Convention, whether the regulations made for such other purposes are of the kind enumerated in this section or not.

PROHIBITED ACTIVITIES

5. Prohibition. — No person, without lawful excuse, the proof whereof shall lie on that person, shall buy, sell or be in possession of any migratory game bird, migratory insectivorous bird or migratory nongame bird, or the nest or egg of any such bird or any part of any such bird, nest or egg during the time when the capturing, killing or taking of that bird, nest or egg is prohibited by this Act.

GAME OFFICERS

6. (1) Appointment and powers of game officers. — The Minister may appoint game officers for carrying out this Act and the regulations, and may authorize the game officers to

exercise the powers of a justice of the peace or of a police constable, and all members of the Royal Canadian Mounted Police are, for the purpose of this Act, game officers.

(2) **Game officer is justice of peace or constable.** — Every game officer who is authorized by the Minister to exercise the powers of a justice of the peace or of a police constable is, for all the purposes of this Act and the regulations, a justice of the peace or a police constable, as the case may be, within the district within which the officer is authorized to act.

(3) **Oath.** — Every game officer shall take and subscribe an oath in the following form:

I, , a of do solemnly swear that to the best of my judgment I will faithfully, honestly and impartially fulfil, execute and perform the office and duties of a according to the true intent and meaning of the *Migratory Birds Convention Act* and the regulations made thereunder. So help me God.

(4) **Exception.** — Subsection (3) does not apply to members of the Royal Canadian Mounted Police who have already taken and subscribed to an oath of allegiance and office as provided by section 14 of the *Royal Canadian Mounted Police Act*.

(5) **Game and fishery officers of a province.** — The Governor in Council may declare that the game and fishery officers of any province are game officers under this Act, but section 13 does not apply to those officers.

6.1 Inspection. — A game officer or peace officer may enter any place or premises, other than a private dwelling-place or any part of any such place or premises that is designed to be used and is being used as a permanent or temporary private dwelling-place, in which the officer believes on reasonable grounds

- (a) there are or have been any migratory game birds, migratory insectivorous birds or migratory nongame birds, or any parts thereof, or any nests or eggs thereof, or any parts thereof,
- (b) there are any books, records or other documents relating to the administration of this Act or the regulations, or
- (c) there is any gun or other weapon or any hunting equipment used with respect to the hunting of migratory game birds, migratory insectivorous birds or migratory nongame birds,

in order to carry out such inspections as the officer deems necessary to ensure compliance with this Act or the regulations.

7. (1) **Search.** — A game officer or peace officer with a warrant issued under subsection (2) may

- (a) enter and search any place or premises in which the officer has reason to believe there exist migratory game birds, migratory insectivorous birds or migratory non-game birds, or any parts thereof or any nests or eggs thereof, or any parts thereof, and
- (b) open and examine and trunk, box, bag, parcel or receptacle the officer believes on reasonable grounds contains any bird, nest or egg referred to in paragraph (a), or any part thereof

in respect of which a breach of this Act or of the regulations may have been committed.

(2) **Authority to issue warrant.** — Where on *ex parte* application a justice of the peace

is satisfied by information on oath that there are reasonable grounds to believe that there is in any place, premises, trunk, box, bag, parcel or receptacle referred to in subsection (1)

(a) anything on or in respect of which any breach of this Act or of the regulations has been or is suspected to have been committed, or

(b) anything that there are reasonable grounds to believe will afford evidence with respect to the commission of any contravention under this Act or the regulations,

the justice of the peace may issue a warrant under his hand authorizing the game officer or peace officer named therein to enter and search the place or premises subject to such conditions as may be specified in the warrant or to open and examine the trunk, box, bag, parcel or receptacle.

(3) **Where warrant not necessary.** — A game officer or peace officer may exercise any of the powers referred to in subsection (1) without a warrant issued under subsection (2) if the conditions for obtaining the warrant exist but by reason of exigent circumstances it would not be practical to obtain the warrant.

(4) **Exigent circumstances.** — For the purposes of subsection (3), exigent circumstances include circumstances in which the delay necessary to obtain a warrant under subsection (2) would result in danger to human life or safety or the loss or destruction of evidence. R.S. 1985, c. 31 (1st Supp.), s. 38.

8. (1) Seizure. — Any game officer who believes on reasonable grounds that

(a) any gun or other weapon, ammunition, boat, skiff, canoe, punt or vessel of any description, team, wagon or other outfit, motor vehicle or aircraft of any kind, decoy, appliance or material of any kind is being or has been used in contravention of or for the purpose of any contravention of this Act or the regulations, or

(b) in contravention of this Act or the regulations any bird, nest or egg has been taken, caught or killed or is had in possession,

may seize the article and shall deliver it to a justice of the peace

(2) **Forfeiture.** — Where a justice of the peace to whom an article seized under subsection (1) is delivered finds that the article was used in contravention of or for the purpose of any contravention of this Act or the regulations, or was taken, caught, killed or had in possession in contravention of this Act or the regulations, the justice of the peace may make an order forfeiting the article to Her Majesty.

9. Assaulting, obstructing or interfering. — No person shall assault, obstruct or interfere with a game officer or peace officer in the discharge of any duty under this Act or the regulations.

10. Wilful refusal of information or giving false information. — No person shall wilfully refuse to furnish information or wilfully furnish false information to a game officer or peace officer respecting a contravention of this Act or the regulations, the existence of or the place of concealment of any bird, nest or egg, or any portion thereof, captured, killed or taken in contravention of this Act or the regulations.

OFFENCE AND PUNISHMENT

11. Contravention by game officer. — Any game officer appointed under this Act who contravenes this Act or the regulations, or who aids, abets or connives at any contravention of

this Act or the regulations, is guilty of an offence and liable to a fine of not more than five hundred and not less than one hundred dollars, and costs, or to imprisonment for a term of not more than six and not less than three months. R.S. 1985, c. 40 (4th Supp.), s. 2 (Sched., item 6); 1992, c. 1, s. 96.

12. General contravention. — Every person who contravenes this Act or the regulations is guilty of an offence and, for each offence, liable on summary conviction to a fine of not more than three hundred and not less than ten dollars or to imprisonment for a term of not more than six months or to both fine and imprisonment.

13. Disposal of moiety. — One-half of every fine imposed and collected under this Act or the regulations, when a game officer appointed without salary or any person who is not a game officer is the prosecutor, shall be paid to that game officer or person or to the person on whose evidence the conviction is made, as the justice of the peace before whom the conviction is had may determine.

SCHEDULE

(Section 2)

CONVENTION

Whereas many species of birds in the course of their annual migrations traverse certain parts of the Dominion of Canada and the United States; and

Whereas many of these species are of great value as a source of food or in destroying insects which are injurious to forests and forage plants on the public domain, as well as to agricultural crops, in both Canada and the United States, but are nevertheless in danger of extermination through lack of adequate protection during the nesting season or while on their way to and from their breeding grounds;

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British dominions beyond the seas, Emperor of India, and the United States of America, being desirous of saving from indiscriminate slaughter and of insuring the preservation of such migratory birds as are either useful to man or are harmless, have resolved to adopt some uniform system of protection which shall effectively accomplish such objects, and to the end of concluding a convention for this purpose have appointed as their respective plenipotentiaries:

His Britannic Majesty, the Right Honourable Sir Cecil Arthur Spring-Rice, G.C.V.O., K.C.M.G., etc., His Majesty's ambassador extraordinary and plenipotentiary at Washington; and

The President of the United States of America, Robert Lansing, Secretary of State of the United States;

Who, after having communicated to each other their respective full powers which were found to be in due and proper form, have agreed to and adopted the following articles:—

Article 1

The High Contracting Powers declare that the migratory birds included in the terms of this Convention shall be as follows:—

1. Migratory Game Birds:—

- (a) Anatidae or waterfowl, including brant, wild ducks, geese, and swans;
- (b) Gruidae or cranes, including little brown, sandhill, and whooping cranes;
- (c) Rallidae or rails, including coots, gallinules and sora and other rails;
- (d) Limicolae or shorebirds, including avocets, curlew, dowitchers, godwits, knots, oyster catchers, phalaropes, plovers, sandpipers, snipe, stilts, surf birds, turnstones, willet, woodcock, and yellowlegs;
- (e) Columbidae or pigeons, including doves and wild pigeons.

2. Migratory Insectivorous Birds: Bobolinks, catbirds, chickadees, cuckoos, flickers, flycatchers, grosbeaks, humming birds, kinglets, martins, meadowlarks, nighthawks or bull bats, nuthatches, orioles, robins, shrikes, swallows, swifts, tanagers, titmice, thrushes, vireos, warblers, waxwings, whippoorwills, woodpeckers, and wrens, and all other perching birds which feed entirely or chiefly on insects.

3. Other Migratory Nongame Birds: Auks, auklets, bitterns, fulmars, gannets, grebes, guillemots, gulls, herons, jaegers, loons, murre, petrels, puffins, shearwaters, and terns.

Article II

The High Contracting Parties agree that, Parties agree that, as an effective means of preserving migratory birds, there shall be established the following close seasons during which no hunting shall be done except for scientific or propagating purposes under permits issued by proper authorities.

1. The close season on migratory game birds shall be between 10th March and 1st September, except that the close of the season on the limicolae or shorebirds in the Maritime Provinces of Canada and in those states of the United States bordering on the Atlantic ocean which are situated wholly or in part north of Chesapeake bay shall be between 1st February and 15th August, and that Indians may take at any time scoters for food but not for sale. The season for hunting shall be further restricted to such period not exceeding three and one-half months as the High Contracting Powers may severally deem appropriate and define by law or regulation.

2. The close season on migratory insectivorous birds shall continue throughout the year.

3. The close season on other migratory nongame birds shall continue throughout the year, except that Eskimos and Indians may take at any season auks, auklets, guillemots, murre, and puffins, and their eggs for food and their skins for clothing, but the birds and eggs so taken shall not be sold or offered for sale.

Article III

The High Contracting Powers agree that during the period of ten years next following the going into effect of this Convention, there shall be a continuous close season on the following migratory game birds, to wit:

Band-tailed pigeons, little brown, sandhill and whooping cranes, swans, curlew and all shorebirds (except the black-breasted and golden plover, Wilson or jack snipe, woodcock, and the greater and lesser yellowlegs); provided that during such ten years the close seasons on

cranes, swans and curlew in the province of British Columbia shall be made by the proper authorities of that province within the general dates and limitations elsewhere prescribed in this Convention for the respective groups to which these birds belong.

Article IV

The High Contracting Powers agree that special protection shall be given the wood duck and the eider duck either (1) by a close season extending over a period of at least five years, or (2) by the establishment of refuges, or (3) by such other regulations as may be deemed appropriate.

Article V

The taking of nests or eggs of migratory game or insectivorous or nongame birds shall be prohibited, except for scientific or propagating purposes under such laws or regulations as the High Contracting Powers may severally deem appropriate.

Article VI

The High Contracting Powers agree that the shipment or export of migratory birds or their eggs from any state or province, during the continuance of the close season in such state or province, shall be prohibited except for scientific or propagating purposes, and the international traffic in any birds or eggs at such time captured, killed, taken, or shipped at any time contrary to the laws of the state or province in which the same were captured, killed, taken, or shipped shall be likewise prohibited. Every package containing migratory birds or any parts thereof or any eggs of migratory birds transported, or offered for transportation from the Dominion of Canada into the United States or from the United States into the Dominion of Canada, shall have the name and address of the shipper and an accurate statement of the contents clearly marked on the outside of such package.

Article VII

Permits to kill any of the above-named birds which, under extraordinary conditions, may become seriously injurious to the agricultural or other interests in any particular community, may be issued by the proper authorities of the High Contracting Powers under suitable regulations prescribed therefor by them respectively, but such permits shall lapse or may be cancelled, at any time when, in the opinion of said authorities, the particular exigency has passed, and no birds killed under this article shall be shipped, sold, or offered for sale.

Article VIII

The High Contracting Powers agree themselves to take, or propose to their respective appropriate law-making bodies, the necessary measures for insuring the execution of the present Convention.

Article IX

The present Convention shall be ratified by His Britannic Majesty and by the President of the United States of America, by and with the advice and consent of the Senate thereof. The

ratifications shall be exchanged at Washington as soon as possible and the Convention shall take effect on the date of the exchange of the ratifications. It shall remain in force for fifteen years, and in the event of neither of the High Contracting Powers having given notification twelve months before the expiration of said period of fifteen years, of its intention of terminating its operation, the Convention shall continue to remain in force for one year and so on from year to year.

In faith whereof, the respective Plenipotentiaries have signed the present Convention in duplicate and have hereunto affixed their seals.

Done at Washington this sixteenth day of August, 1916.

[Here follow the signatures of Cecil Spring-Rice and Robert Lansing.]

NATIONAL HOUSING ACT

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NATIONAL HOUSING ACT

R.S.C. 1985, c. N-11, as am. R.S.C. 1985, c. 20 (2nd Supp.), ss. 7 to 12; 1992, c. 32, s. 46

An Act to promote the construction of new houses, the repair and modernization of existing houses, and the improvement of housing and living conditions

INTERPRETATION

2. Definitions. — In this Act,

“Indian”. — “Indian” means an Indian, as defined in the *Indian Act*;

“Indian band”. — “Indian band” means

- (a) council of the band, as defined in the *Indian Act*,
- (b) band or council, as defined in the *Cree-Naskapi (of Quebec) Act*, chapter 18 of the Statutes of Canada, 1984, or
- (c) the Band or the Council, as defined in the *Sechelt Indian Band Self-Government Act*, chapter 27 of the Statutes of Canada, 1986;

“reserve”. — “reserve”, in relation to Indians, means

- (a) a reserve, as defined in the *Indian Act*,
- (b) Category IA land or Category IA-N land, as defined in the *Cree-Naskapi (of Quebec) Act*, chapter 18 of the Statutes of Canada, 1984,
- (c) Sechelt lands, as defined in the *Sechelt Indian Band Self-Government Act*, chapter 27 of the Statutes of Canada, 1986. R.S. 1985, c. 20 (2nd Supp.), s. 7.

PART I

INSURED MORTGAGE LOANS

10. (1) Loans to Indians or bands. — An approved lender may, subject to and in accordance with regulations of the Governor in Council made under the authority of this subsection, make a loan to an Indian, an Indian band or a group of Indians for the purpose of assisting in the purchase, improvement or construction of a housing project on a reserve, and such a loan is insurable in the manner provided by those regulations. R.S. 1985, c. 20 (2nd Supp.), s. 8.

PART VI

REPAIR, REHABILITATION, IMPROVEMENT AND CONVERSION OF BUILDINGS

51. (1) Loans for repair, rehabilitation, improvement and conversion. — The Corporation may, in such circumstances as may be prescribed by regulation, make a loan

(d) with the consent of the Minister of Indian Affairs and Northern Development, to an Indian resident on a reserve, to a group of Indians each of whom is resident on a reserve or to an Indian band for the purpose of assisting in the repair, rehabilitation or improvement of a family housing unit or of housing accommodation of the hostel or dormitory type on a reserve or for the purpose of assisting in the conversion, as described in paragraph (c), of an existing residential building on a reserve.

(3) **Occupancy and maintenance standards.** — No loan may be made under this section unless

(a) the province, the municipality or the reserve in which the family housing unit, housing accommodation or building is located has adopted occupancy and building maintenance standards satisfactory to the Corporation. R.S. 1985, c. 20 (2nd Supp.), s. 9(1).

PART VII

INTEREST RATE PROTECTION

69. (1) [Repealed R.S. 1985, c. 20 (2nd Supp.), s. 10.]

(2) **Where contract not to be entered into.** — Notwithstanding anything in this Part,

(a) no contract may be entered into under subsection 65(1), except where

- (i) the money referred to in that subsection is, in prescribed circumstances, secured by a first mortgage or such security, other than a second or subsequent charge, on property as may be prescribed that is not taken by the mortgagee or chargee on any sale, by the mortgagee or chargee, of premises purchased with the money, or
- (ii) the home owner with whom the Corporation enters into the contract is an Indian and that money is, in prescribed circumstances, unsecured on property; and

(b) no protection shall have effect in respect of any loan, except where

- (i) the loan is, in prescribed circumstances, secured by a first mortgage or such security, other than a second or subsequent charge, on property as may be stipulated by the contract providing the protection, or
- (ii) the home owner provided with the protection is an Indian and the loan is, in prescribed circumstances, unsecured on property.

PART IX

HOUSING RESEARCH AND COMMUNITY PLANNING

76. (1) **Loans for developing proposals and initiating projects.** — Where a person

(a) advises the Corporation that the person wishes to undertake a project

- (i) for individuals or families of low income, or
- (ii) to meet the needs of individuals resulting from age, infirmity or other disability, and

(b) satisfies the Corporation

- (i) that the person requires financial assistance for any purpose related to the development of proposals for the project or the initiation thereof, and
- (ii) in the case of any advice under paragraph (a) in respect of a project to meet the needs of individuals resulting as described in subparagraph (a)(ii), that those needs are not adequately met by housing accommodation ordinarily available on the current rental market in the area in which the individuals live,

the Corporation may make a loan for the purpose referred to in subparagraph (b)(i), subject to such terms and conditions as it considers proper, if the project is one for which a loan may be made under this Act.

(2) **Aggregate amount of loans.** — The aggregate amount of loans made under subsection (1) with respect to any one project shall not exceed the amount prescribed by regulation.

(3) **Power to forgive loan.** — Where a proposal or project is, in circumstances prescribed by regulation, abandoned after a loan has been made under this section for any purpose related to the development of that proposal or to the initiation of that project or the development of any proposal for that project, the Corporation may, subject to any terms and conditions prescribed by regulation, forgive payment by the borrower of the loan to the extent prescribed by any such regulation.

95. (1) Definition of “eligible contribution recipient”. — In this section, “eligible contribution recipient” means

- (a) a corporation described in paragraph 27(2)(c) or a non-profit corporation,
- (b) a province or municipality or a public housing agency within the meaning assigned by section 78,
- (c) an Indian band,
- (d) a group of Indians each of whom resides on a reserve, or
- (e) any person who owns or operates a rental housing project, including the Corporation where the Corporation owns or operates a rental housing project. R.S. 1985, c. 20 (2nd Supp.), s. 11; 1992, c. 32, s. 46.

98. Loans to Indians. — The Corporation may, subject to and in accordance with regulations of the Governor in Council, make loans to Indians for the purpose of assisting in the purchase, improvement or construction of housing projects on reserves. R.S. 1985, c. 20 (2nd Supp.), s. 12.

GST TECHNICAL INFORMATION BULLETIN B-039

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Technical Information Bulletin B-039

GST ADMINISTRATIVE POLICY APPLICATION OF GST TO INDIANS

September 1992 [originally dated January 4, 1991]

This bulletin does not replace the law found in the *Excise Tax Act* and its Regulations. It is provided for your reference. As it may not completely address your particular operation, you may wish to refer to the Act or appropriate Regulation or contact any Revenue Canada Excise/GST District Office for additional information. If you are located in the Province of Quebec, please contact the Ministère du Revenu de Québec (MRQ) for additional information.

This bulletin may reflect amendments proposed to the *Excise Tax Act* contained in Notices of Ways Means Motion and/or announced in press releases on December 18, 1990, March 27, 1991, November 5, 1991, February 12, 1992, February 25, 1992, March 10, 1992, April 27, 1992 and September 14, 1992. The federal government announced its intention to introduce certain amendments to the *Excise Tax Act* to effect these changes which were outlined by the Minister of Finance or the Minister of National Revenue in press releases on the mentioned dates. [Where proposed changes affect information contained in this bulletin, the information is enclosed in square brackets.] At the time of publication, Parliament had not enacted these proposed amendments. Any commentary in this bulletin should not be taken as a statement by the Department that such amendments will in fact be enacted into law in their current form.

INTRODUCTION

This bulletin summarizes the policy concerning the treatment of Indian purchases under the Goods and Services Tax (GST).

NOTE: This supersedes Technical Information Bulletin B-039, dated January 4, 1991.

The treatment of Indian purchases under the GST is consistent with the *Indian Act* under which personal property of an Indian or an Indian band situated on a reserve and their interests in reserves or designated lands are not subject to tax.

The policy is as follows

- GST does not apply to on-reserve purchases of goods by Indians and Indian bands, or to off-reserve purchases of goods delivered to the reserve by vendors or their agents.
- GST does not apply to services purchased on-reserve by Indians, such as small engine repairs, where the benefit is realized primarily on-reserve.
- GST does not apply to services such as legal or accounting services, when purchased by an Indian band for band management activities, or in connection with real property located on-reserve.
- Unincorporated Indian-owned businesses may purchase on the same tax-free basis as Indian individuals since they qualify for the exemption under section 87 of the *Indian Act*. Like other businesses, they may claim input tax credits for purchases on which they pay the GST, for example, on off-reserve purchases.

- Incorporated Indian-owned businesses are treated the same as other businesses. The GST will be paid on their purchases and input tax credits claimed subject to the provisions of the legislation.
 - Band-empowered entities situated on-reserve may purchase on the same tax-free basis as an Indian band.
 - To qualify for the 50 per cent GST rebate to non-profit organizations, band funding of Indian non-profit organizations will be considered equivalent to government funding.
- These guidelines are without prejudice to any aboriginal or treaty rights which may exist.

DEFINITIONS

The following is a summary of terms used throughout this bulletin.

An “Indian” is a person who is registered under the *Indian Act*. An Indian does not have to live or maintain a residence on a reserve. Such a person may be issued a Certificate of Indian Status by the Department of Indian and Northern Affairs.

An “Indian Band”, for purposes of the GST, includes both a band council and a tribal council. The band council is the primary unit of an Indian government.

A tribal council is another level of Indian government. It is a grouping of bands with a common interest who have joined together to provide advisory or program services for two or more bands. Band council members compose the tribal council Board of Directors.

A “band-empowered entity” is a corporation, board, council, association, society, or other organization that is owned or controlled by a band, a tribal council, or a group of bands other than a tribal council. This policy is applicable to those band-empowered entities situated on a reserve. A band-empowered entity is considered to be situated on a reserve when the entity maintains a presence on reserve.

An entity is considered to be owned by a band, a tribal council or a group of bands other than a tribal council if:

- the band, tribal council or group of bands owns all or substantially all (90 per cent) of the shares or holds all or substantially all of the memberships of the entity; or
- the band, tribal council or group of bands holds title to the assets of the entity or controls its disposition, such that in the event of wind up or liquidation, these assets are vested in the band.

An entity is considered to be controlled by the band, tribal council or group of bands if:

- the band, tribal council, group of bands or individual members of the band, tribal council or group of bands, appoint or elect a majority of the members of the governing body of the entity (e.g., directors); and
- the entity is required by legislation, by-laws, or an operating agreement, to submit to the band, tribal council or group of bands, its operating budget and where applicable, its capital budget for review and approval.

“Band management activities” are activities or programs undertaken by a band that are not commercial activities for which they would otherwise be entitled to an input tax credit. In

CERTIFICATE OF INDIAN STATUS CARD

determining whether the acquisition of a supply is for band management, the output of the activity or program will be the determining factor, as opposed to the objectives of the activity or program. For example, a band's objective or program may be to provide employment and training to band members. To achieve this objective, the band may form a commercial enterprise which will provide on-the-job training and also create employment. Although the band's objective is to train persons, the output is a commercial activity for which there is an entitlement to input tax credits. As a result, supplies acquired for use in this band program are not considered to have been acquired for use in band management activities.

A "reserve" means a reserve within the meaning of the *Indian Act*, that is, a tract of land which has been set apart for the use and benefit of a band within the meaning of the *Indian Act*, or equivalent lands under self-government legislation, i.e., the *Cree-Naskapi (of Quebec) Act* and the *Sechelt Indian Band Self-Government Act*. "Reserve" also includes "designated land", which, according to the *Indian Act*, is a tract of land whose legal title remains vested in Her Majesty and in which the band for whose use and benefit it was set apart as a reserve has, otherwise than absolutely, released or surrendered its rights or interests.

The settlements affected by the Indians and Bands on Certain Indian Settlements Remission Order are also included in the definition of reserve for the purposes of this policy. A limited number of settlements in Alberta, northwestern Ontario and Quebec, are covered by the Remission Order. These settlements are listed in the pamphlet entitled *Indians and Bands on Certain Indian Settlements Remission Order*, available from District Excise/GST offices.

Those lands which are part of land claims negotiations are not reserves for the purposes of this policy.

"Property" means any property, whether real or personal, movable or immovable, tangible or intangible, corporeal or incorporeal, and includes a right or interest of any kind, a share and a chose in action, but does not include money.

"Real property" includes

- in respect of property in the Province of Quebec, immovable property and every lease thereof,
- in respect of property in any other place in Canada, messages, lands and tenements of every nature and description and every estate or interest in real property, whether legal or equitable, and
- a mobile home.

CERTIFICATE OF INDIAN STATUS CARD

The Certificate of Indian Status identification card is issued by the Department of Indian and Northern Affairs to eligible Indians. The certificates are laminated picture identifications that display the Canadian maple leaf logo, followed immediately by the Department of Indian and Northern Affairs Canada name. The certificate also bears the photograph and description of the individual, a registry number, the name of the band to which the individual belongs, and the family number.

There can be three different numbers appearing on the Certificate of Indian Status card.

The registry number is found on the recent cards. It is a nine or ten digit number that can

be used to designate the individual. The first three digits are the band's number, and the next four or five are the family number within the band, with the last two designating the individual family member.

The band name, followed by a number can be found on most cards. This number is properly referred to as the family number which is a genealogical division within the band and makes up the middle four or five digits of the registry number.

A card serial number is on all cards. This number is the numeric sequence of the card issue and is not a number used to identify the individual or to document his/her status and has no application for GST purposes.

An Indian must present proof of registration under the *Indian Act* to a vendor in order to acquire property or services on reserve without paying the GST. Revenue Canada, Customs and Excise, will accept as proof of registration under the *Indian Act* the Certificate of Indian Status identification card.

To view the Indian Status identification card, please see the printed copy of this publication.

PURCHASES BY INDIANS, INDIAN BANDS AND BAND-EMPOWERED ENTITIES

Property

On Reserve

Indians, Indian bands, or unincorporated band-empowered entities may acquire property on reserve without paying the GST, provided they have the appropriate documentation to show the vendor.

Acquisitions of property on reserve by non-Indians will be subject to the normal GST rules.

Normally, corporations are considered to be separate legal persons from either an Indian or an Indian band and would not be eligible for relief from the GST. However, the tax will not apply to incorporated band-empowered entities purchasing for their band management activities.

Off Reserve

Indians, Indian bands and unincorporated band-empowered entities, as well as incorporated band-empowered entities purchasing for their band management activities, may acquire property off reserve without paying the GST, provided

- they have the appropriate documentation to show the vendor; and
- and property is delivered to a reserve by the vendor or the vendor's agent.

However, if the purchaser uses his or her own vehicle to transport the property to the reserve, the acquisition is subject to the normal GST rules.

PURCHASES BY INDIANS

Note: There is an exception for remote stores. For information, see the heading “REMOTE STORES” below.

Importations

Importations by Indians, Indian bands or band-empowered entities are subject to the normal import rules, that is, they are taxable at seven per cent unless they are specifically zero-rated. GST on imported goods is collected by Canada Customs under the authority of the *Customs Act* at the time of importation.

Importations of goods are subject to the GST regardless of whether the goods have been delivered to a reserve by the vendor’s agent or by Canada Post.

Services

Individual Indians

Purchases of services on reserve by an Indian where the benefit is primarily realized on reserve (e.g., small engine repairs) are not subject to the GST.

The following guidelines are used for determining whether the benefit of a service is primarily realized on reserve.

Services for property. — If a service is performed totally on reserve and the property is situated on reserve, the benefit is considered to be primarily realized on reserve.

Services for individuals. — If the service is performed totally on reserve for an Indian who is on reserve at the time the service is performed, e.g. a haircut given on reserve, the benefit is considered to be primarily realized on reserve.

Transportation services. — Only where both the origin and the destination are on the same reserve is the benefit of these services considered to be primarily realized on reserve, for example, a taxi service operating within the boundaries of a reserve.

Individual Indians must pay the seven per cent GST on all taxable services purchased off reserve unless the services are purchased for real property interests on reserve.

Services are subject to the normal GST rules when they are provided to non-Indians on reserve.

Indian Bands and Band-Empowered Entities

Services acquired on or off reserve by an Indian band, or band-empowered entity, for management activities or for real property on reserve, are not subject to GST. However, the GST applies to services acquired for commercial activities of the Indian band or band-empowered entity.

Exception: Indian bands and band-empowered entities will pay the GST on off-reserve purchases of transportation, short-term accommodation, meals and entertainment. However, the band or the band-empowered entity may file a rebate claim to recover the GST paid on

these purchases when these services are purchased for management activities or for real property located on reserve.

VENDOR DOCUMENTATION

Vendors must keep adequate evidence that sales for which no GST was payable were made to Indians, Indian bands or band-empowered entities.

Individual Indians

When the purchaser is an individual Indian, vendors must maintain adequate evidence that a sale was made to an Indian who is registered under the *Indian Act*. Revenue Canada, Customs and Excise, will accept as adequate evidence, notation on the invoice or other sales document which is retained by the vendor, of the nine or ten digit registry number or the band name and family number (commonly referred to as the band number/treaty number).

Indian Bands and Band-Empowered Entities

When the purchaser is an Indian band or band-empowered entity, a certificate must be provided with the purchase order, invoice or other similar document which is retained by the vendor that the property is being acquired by an Indian band or band-empowered entity or that the services are being acquired for band management activities.

Please refer to page B225 of this bulletin regarding the entitlement for tax relief on acquisitions by incorporated and unincorporated band-empowered entities.

The certification should be similar in wording to the following:

This is to certify that the *Name of band or band-empowered entity* is acquiring property on the reserve or is acquiring services for band management activities. This supply will not be subject to the Goods and Services Tax.

Signature of Authorized Officer

Date

Title of Signing Officer

Off-Reserve Purchases of Property Delivered to a Reserve

Along with the individual's Certificate of Indian Status card number or the certification by the Indian band or band-empowered entity, the vendor is required to maintain proof of delivery (e.g., waybill, postal receipt, freight bill, etc.), indicating the destination of the property to a reserve.

DELIVERY

If the store from which property has been acquired is not located on a reserve, then the property must be delivered to a reserve for the purchase to be relieved from the GST.

SALES BY INDIANS

The property must be delivered by either the vendor or an agent of the vendor.

If these conditions or the provisions for remote stores described on page B229 are not met, the normal GST rules apply.

Vendor

Where property is delivered to the reserve in the vendor's own vehicle, the vendor must maintain proof that delivery was made to the reserve. This will be indicated on the invoice of the vendor and the vendor's internal records, e.g., mileage log, dispatch records. Such proof must be maintained in addition to the proof of Indian status or certification by an Indian band or band-empowered entity.

Normal GST rules will apply where an Indian, Indian band or band-empowered entity who is the purchaser takes possession of the property off a reserve and delivers the property to a reserve in his or her own vehicle.

Vendor's Agent

Where the property is delivered by the vendor's agent to a reserve, the vendor must maintain:

proof of Indian status or certification by the band or band-empowered entity; and

proof of delivery being made to the reserve (e.g., a waybill, postal receipt showing a reserve address, etc.).

An agent of the vendor includes an individual or company under contract to the vendor for making deliveries (e.g., postal services, trains, boats, couriers, etc.). The vendor would normally bear all the risks of the agent during the course of the delivery as if these risks were the vendor's own, unless specifically covered in the agency agreement.

A carrier who is under contract with the recipient is not regarded as the agent of the vendor. In addition, undertakings by purchasers of property to deliver the property to themselves as agents of the vendor are not acceptable to the Department.

SALES BY INDIANS, INDIAN BANDS AND BAND-EMPOWERED ENTITIES

Businesses owned by Indians, Indian bands or band-empowered entities whose annual taxable sales of property and services are more than \$30,000, are required to register for the GST. Like other businesses, once registered, they are required to collect and remit the GST to Revenue Canada, Customs and Excise.

Businesses, whether owned by Indians or non-Indians, selling property or services to Indians must include their taxable sales to Indians in their calculation of annual revenue to determine whether they must register for the GST. Sales of property and services taxable at seven per cent are in effect zero-rated when sold to Indians, Indian bands or band-empowered entities under conditions in which the GST is not payable.

Incorporated businesses owned by Indians or Indian bands must pay the GST on their purchases of taxable goods and services, except for those incorporated band-empowered entities acquiring supplies for use in band management activities. If such entities are registered for the

GST, they must collect the tax on their sales of property and services (unless the sales are made to Indians, or Indian bands under conditions in which the GST is not payable) and claim input tax credits for the GST paid on purchases made in carrying out their businesses.

Sole proprietorships and partnerships owned by Indians receive the same treatment on purchases as individual Indians. If they are registered for the GST, they must collect the GST on their sales of taxable property and services (unless they are made to Indians and Indian bands under the conditions in which the GST is not payable) and can recover any GST they do pay on their business purchases by claiming input tax credits.

In the case of purchases made by partnerships, tax relief is available for purchases made in either the purchaser's own name or the partnership name. However, all conditions for the partner to receive tax relief on the acquisition of a supply must be met, i.e., property must be acquired on reserve or delivered to the reserve and the proper documentation must be maintained.

Where a partnership has both Indian and non-Indian participants, relief from GST only applies to purchases made by an Indian partner or partners. GST will apply where a non-Indian partner acquires a supply for the partnership and retains the supply for personal use.

REMOTE STORES

Some vendors who are not located on a reserve make a significant portion of their sales to Indians, Indian band and band-empowered entities. In some instances, these vendors are in a remote location and their regular trading zone includes a reserve which is not in the immediate vicinity. In such cases, the requirement for goods to be delivered to a reserve by the vendor in remote locations may be difficult to meet, either because of the prohibitive cost or a lack of public transportation.

In recognition of the unique circumstances of both the vendor and purchaser, the requirement for delivery to a reserve will be waived where property is purchased by an Indian, Indian band or band-empowered entity in the following circumstances:

Option 1

Where the regular trading zone of the vendor includes a reserve and,

- the vendor is located in a remote location, and,
- during the previous year, more than 50 per cent of all sales were made to Indians, Indian bands or band-empowered entities situated on reserve,

the requirement that goods be delivered to a reserve by the vendor in order to be relieved from GST will not apply. The regular trading zone means the area in which all or substantially all (90 per cent or more) of a vendor's customers reside.

A vendor is considered to be in a remote location when:

- the vendor is serviced by year-round road access, and is located over 350 kilometres from the nearest community with a population of 5,000 or more, by the most direct route normally travelled in the circumstances; or
- surface transportation is not available year-round on paved or gravelled roads linking

REMOTE STORES

the vendor with the nearest established community. An established community means a village, hamlet, town, etc. within which there exist most basic or standard municipal services.

Please note that a vendor in an established community which is not linked by year-round roads to other communities is not considered to be in a remote location. Therefore, such a vendor cannot use this option in order to waive the delivery requirement on sales to Indians, Indian bands and band-empowered entities.

Option 2

The requirement for delivery will also be waived where

- the vendor is within 10 kilometres of the reserve; and
- during the previous year, all or substantially all the vendor's sales (90 per cent or more) were made to Indians, Indian bands or band-empowered entities situated on reserve.

For both Option 1 and Option 2, the vendor must continue to keep the required documentation to verify on any given sale that the purchaser was an Indian, Indian band or band-empowered entity. This documentation will be used to verify the percentage of total sales made to Indians, Indian bands and band-empowered entities, and to justify non-payment of the GST on otherwise taxable sales.

Each year, vendors who choose to operate under the special provisions for remote stores must advise the nearest Revenue Canada Excise/GST District Office in writing of their decision to do so.

ONTARIO CHILD AND FAMILY SERVICES ACT

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PART VII

ADOPTION

136. (1) **Definitions.** — In this Part,

“**licensee**”. — “licensee” means the holder of a licence issued under Part IX (Licensing) to place children for adoption; (“titulaire de permis”)

“**relative**”. — “relative”, when used in reference to a child, means the child’s grandparent, great-uncle, great-aunt, uncle or aunt, whether by blood, marriage or adoption; (“parent”)

“**spouse**”. — “spouse” has the same meaning as in Parts I and II of the *Human Rights Code*. (“conjoint”)

(2) **Best interests of child.** — Where a person is directed in this Part to make an order or determination in the best interests of a child, the person shall take into consideration those of the following circumstances of the case that he or she considers relevant:

1. The child’s physical, mental and emotional needs, and the appropriate care or treatment to meet those needs.
2. The child’s physical, mental and emotional level of development.
3. The child’s cultural background.
4. The religious faith, if any, in which the child is being raised.
5. The importance for the child’s development of a positive relationship with a parent and a secure place as a member of a family.
6. The child’s relationships by blood or through an adoption order.
7. The importance of continuity in the child’s care and the possible effect on the child of disruption of that continuity.
8. The child’s views and wishes, if they can be reasonably ascertained.
9. The effects on the child of delay in the disposition of the case.
10. Any other relevant circumstances.

(3) **Where child an Indian or native person.** — Where a person is directed in this Part to make an order or determination in the best interests of a child and the child is an Indian or native person, the person shall take into consideration the importance, in recognition of the uniqueness of Indian and native culture, heritage and traditions, of preserving the child’s cultural identity.

PLACEMENT FOR ADOPTION

140. (1) **Duty of society.** — A society shall make all reasonable efforts to secure the adoption of,

- (a) every child who has been made a Crown ward under Part III (Child Protection) and is in the society’s care and custody; and

(b) at the request of a Director or of another society, any child who has been made a Crown ward and is in that society's care and custody.

(2) **When society may place child for adoption.** — No society shall place a child for adoption until,

(a) any outstanding order of access to the child made under subsection 58(1) of Part III has been terminated;

(b) where the child is a Crown ward, the time for commencing an appeal of the order of Crown wardship or of an order under subsection 65(1) of Part III (status review) has expired; or

(c) where the child is a Crown ward, any appeal of an order referred to in clause (b) has been finally disposed of or abandoned,

whichever is the latest.

(3) **Where child an Indian or native person.** — Where a child to be placed for adoption is an Indian or a native person, the society shall give the child's band or native community thirty days written notice of its intention to place the child for adoption.

PART X

INDIAN AND NATIVE CHILD AND FAMILY SERVICES

208. Definition. — In this Part, "customary care" means the care and supervision of an Indian or native child by a person who is not the child's parent, according to the custom of the child's band or native community. ("soins conformes aux traditions")

209. Designation of native communities. — The Minister may designate a community, with the consent of its representatives, as a native community for the purposes of this Act.

210. Agreements with bands and native communities. — The Minister may make agreements with bands and native communities, and any other parties whom the bands or native communities choose to involve, for the provision of services.

211. (1) Designation of child and family service authority. — A band or native community may designate a body as an Indian or native child and family service authority.

(2) **Agreements, etc..** — Where a band or native community has designated an Indian or native child and family service authority, the Minister,

(a) shall, at the band's or native community's request, enter into negotiations for the provision of services by the child and family service authority;

(b) may enter into agreements with the child and family service authority and, if the band or native community agrees, any other person, for the provision of services; and

(c) may designate the child and family service authority, with its consent and if it is an approved agency, as a society under subsection 15(2) or Part I (Flexible Services).

212. Subsidy for customary care. — Where a band or native community declares that an Indian or native child is being cared for under customary care, a society or agency may grant a subsidy to the person caring for the child.

213. Consultation with bands and native communities. — A society or agency that

provides services or exercises powers under this Act with respect to Indian or native children shall regularly consult with their bands or native communities about the provision of the services or the exercise of the powers and about matters affecting the children, including,

- (a) the apprehension of children and the placement of children in residential care;
- (b) the placement of homemakers and the provision of other family support services;
- (c) the preparation of plans for the care of children;
- (d) status reviews under Part III (Child Protection);
- (e) temporary care and special needs agreements under Part II (Voluntary Access to Services);
- (f) adoption placements;
- (g) the establishment of emergency houses; and
- (h) any other matter that is prescribed.

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POLICE SERVICES ACT

R.S.O. 1990, c. P. 15

PART IV

POLICE OFFICERS AND OTHER POLICE STAFF

First Nations Constables

54. (1) First Nations Constables. — With the Commission's approval, the Commissioner may appoint a First Nations Constable to perform specified duties.

(2) Further approval. — If the specified duties of a First Nations Constable relate to a reserve as defined in the *Indian Act* (Canada), the appointment also requires the approval of the reserve's police governing authority or band council.

(3) Powers of police officer. — The appointment of a First Nations Constable confers on him or her the powers of a police officer for the purpose of carrying out his or her specified duties.

(4) Duty to consult. — The Commissioner shall not suspend or terminate the appointment of a First Nations Constable whose specified duties relate to a reserve without first consulting with the police governing authority or band council that approved the appointment.

(5) Suspension or termination of appointment. — The power to appoint a First Nations Constable includes the power to suspend or terminate the appointment, but if the Commissioner suspends or terminates an appointment, written notice shall promptly be given to the Commission.

(6) Commission. — The Commission also has power to suspend or terminate the appointment of a First Nations Constable.

(7) Information and opportunity to reply. — Before a First Nations Constable's appointment is terminated, he or she shall be given reasonable information with respect to the reasons for the termination and an opportunity to reply, orally or in writing as the Commissioner or Commission, as the case may be, may determine.

(8) Oaths of office and secrecy. — A person appointed to be a First Nations Constable shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form.

THE ROYAL PROCLAMATION

October 7, 1763

BY THE KING, A PROCLAMATION
GEORGE R.

Whereas We have taken into Our Royal Consideration the extensive and valuable Acquisitions in America, secured to our Crown by the late Definitive Treaty of Peace, concluded at Paris, the 10th Day of February last; and being desirous that all Our loving Subjects, as well of our Kingdom as of our Colonies in America, may avail themselves with all convenient Speed, of the great Benefits and Advantages which must accrue therefrom to their Commerce, Manufactures, and Navigation, We have thought fit, with the Advice of our Privy Council, to issue this our Royal Proclamation, hereby to publish and declare to all our loving Subjects, that we have, with the Advice of our Said Privy Council, granted our Letters Patent, under our Great Seal of Great Britain, to erect, within the Countries and Islands ceded and confirmed to Us by the said Treaty, Four distinct and separate Governments, styled and called by the names of Quebec, East Florida, West Florida and Grenada, and limited and bounded as follows, viz.

First — The Government of Quebec bounded on the Labrador Coast by the River St. John, and from thence by a Line drawn from the Head of that River through the Lake St. John, to the South end of the Lake Nipissim; from whence the said Line, crossing the River St. Lawrence, and the Lake Champlain, in 45. Degrees of North Latitude, passes along the High Lands which divide the Rivers that empty themselves into the said River St. Lawrence from those which fall into the Sea; and also along the North Coast of the Baye des Chaleurs, and the Coast of the Guelph of St. Lawrence to Cape Rosieres, and from thence crossing the Mouth of the River St. Lawrence by the West End of the Island of Anticosti, terminates at the aforesaid River of St. John.

Secondly — The Government of East Florida, bounded to the Westward by the Gulph of Mexico and the Apalachicola River; to the Northward by a Line drawn from that part of the said River where the Chatahouchee and Flint Rivers meet, to the source of St. Mary's River, and by the course of the said River to the Atlantic Ocean; and to the Eastward and Southward by the Atlantic Ocean and the Gulph of Florida, including all Islands within Six Leagues of the Sea Coast.

Thirdly — The Government of West Florida, bounded to the Southward by the Gulph of Mexico, including all Islands within Six Leagues of the Coast, from the River Apalachicola to Lake Pontchartrain; to the Westward by the said Lake, the Lake Maurepas, and the River Mississippi; to the Northward by a Line drawn due East from that part of the River Mississippi which lies in 31 Degrees North Latitude, to the River Apalachicola or Chatahouchee; and to the Eastward by the said River.

Fourthly — The Government of Grenada, comprehending the Island of that name, together with the Grenadines, and the Islands of Dominico, St. Vincent's and Tobago. And to the end that the open and free Fishery of our Subjects may be extended to and carried on upon the Coast of Labrador, and the adjacent Islands, We have thought fit, with the advice of our said Privy Council to put all that Coast, from the River St. John's to Hudson's Streights, together

THE ROYAL PROCLAMATION

with the Islands of Anticosti and Madelaine, and all other smaller Islands lying upon the said Coast, under the care and Inspection of our Governor of Newfoundland.

We have also, with the advice of our Privy Council, thought fit to annex the Islands of St. John's and Cape Breton, or Isle Royale, with the lesser Islands adjacent thereto, to our Government of Nova Scotia.

We have also, with the advice of our Privy Council aforesaid, annexed to our Province of Georgia all the Lands lying between the Rivers Alatomaha and St. Mary's.

And whereas it will greatly contribute to the speedy settling of our said new Governments, that our loving Subjects should be informed of our Paternal care, for the security of the Liberties and Properties of those who are and shall become Inhabitants thereof, We have thought fit to publish and declare, by this Our Proclamation, that We have, in the Letters Patent under our Great Seal of Great Britain, by which the said Governments are constituted, given express Power and Direction to our Governors of our Said Colonies respectively, that so soon as the state and circumstances of the said Colonies will admit thereof, they shall, with the Advice and Consent of the Members of our Council, summon and call General Assemblies within the said Governments respectively, in such Manner and Form as is used and directed in those Colonies and Provinces in America which are under our immediate Government; And We have also given Power to the said Governors, with the consent of our Said Councils, and the Representatives of the People so to be summoned as aforesaid, to make, constitute, and ordain Laws, Statutes, and Ordinances for the Public Peace, Welfare, and good Government of our said Colonies, and of the People and Inhabitants thereof, as near as may be agreeable to the Laws of England, and under such Regulations and Restrictions as are used in other Colonies; and in the mean Time, and until such Assemblies can be called as aforesaid, all Persons Inhabiting in or resorting to our Said Colonies may confide in our Royal Protection for the Enjoyment of the Benefit of the Laws of our Realm of England; for which Purpose We have given Power under our Great Seal to the Governors of our said Colonies respectively to erect and constitute, with the Advice of our said Councils respectively, Courts of Judicature and public Justice within our Said Colonies for hearing and determining all Causes, as well Criminal as Civil, according to Law and Equity, and as near as may be agreeable to the Laws of England, with Liberty to all Persons who may think themselves aggrieved by the Sentences of such Courts, in all Civil Cases, to appeal, under the usual Limitations and Restrictions, to Us in our Privy Council.

We have also thought fit, with the advice of our Privy Council as aforesaid, to give unto the Governors and Councils of our said Three new Colonies, upon the Continent full Power and Authority to settle and agree with the Inhabitants of our said new Colonies or with any other Persons who shall resort thereto, for such Lands, Tenements and Hereditaments, as are now or hereafter shall be in our Power to dispose of; and them to grant to any such Person or Persons upon such Terms, and under such moderate Quit-Rents, Services and Acknowledgments, as have been appointed and settled in our other Colonies, and under such other Conditions as shall appear to us to be necessary and expedient for the Advantage of the Grantees, and the Improvement and settlement of our said Colonies.

And Whereas, We are desirous, upon all occasions, to testify our Royal Sense and Approbation of the Conduct and bravery of the Officers and Soldiers of our Armies, and to reward the same, We do hereby command and empower our Governors of our said Three new Colonies, and all other our Governors of our several Provinces on the Continent of North America, to grant without Fee or Reward, to such reduced Officers as have served in North America during

THE ROYAL PROCLAMATION

the late War, and to such Private Soldiers as have been or shall be disbanded in America, and are actually residing there, and shall personally apply for the same, the following Quantities of Lands, subject, at the Expiration of Ten Years, to the same Quit-Rents as other Lands are subject to in the Province within which they are granted, as also subject to the same Conditions of Cultivation and Improvement; viz.

To every Person having the Rank of a Field Officer — 5,000 Acres.

To every Captain — 3,000 Acres.

To every Subaltern or Staff Officer, — 2,000 Acres.

To every Non-Commission Officer, — 200 Acres.

To every Private Man — 50 Acres.

We do likewise authorize and require the Governors and Commanders in Chief of all our said Colonies upon the Continent of North America to grant the like Quantities of Land, and upon the same conditions, to such reduced Officers of our Navy of like Rank as served on board our ships of War in North America at the times of the Reduction of Louisbourg and Quebec in the late War, and who shall personally apply to our respective Governors for such Grants.

And whereas it is just and reasonable, and essential to our Interest, and the Security of our Colonies, that the several Nations or Tribes of Indians with whom We are connected, and who live under our Protection, should not be molested or disturbed in the Possession of such Parts of Our Dominions and Territories as, not having been ceded to or purchased by Us, are reserved to them, or any of them, as their Hunting Grounds. — We do therefore, with the Advice of our Privy Council, declare it to be our Royal Will and Pleasure, that no Governor or Commander in Chief in any of our Colonies of Quebec, East Florida, or West Florida, do presume, upon any Pretence whatever, to grant Warrants of Survey, or pass any Patents for Lands beyond the Bounds of their respective Governments, as described in their Commissions; as also that no Governor or Commander in Chief in any of our other Colonies or Plantations in America do presume for the present, and until our further Pleasure be known, to grant Warrants of Survey, or pass Patents for any Lands beyond the Heads or Sources of any of the Rivers which fall into the Atlantic Ocean from the west and North West, or upon any Lands whatever, which, not having been ceded to or purchased by Us as aforesaid, are reserved to the said Indians, or any of them.

And We do further declare it to be Our Royal Will and Pleasure, for the present as aforesaid, to reserve under our Sovereignty, Protection, and Dominion, for the use of the said Indians, all the Lands and Territories not included within the Limits of Our said Three new Governments, or within the Limits of the Territory granted to the Hudson's Bay Company, as also all the Lands and Territories lying to the Westward of the Sources of the Rivers which fall into the Sea from the West and North West as aforesaid.

And We do hereby strictly forbid, on Pain of our Displeasure, all our loving Subjects from making any Purchases or Settlements whatever, or taking Possession of any of the Lands above reserved, without our especial leave and Licence for that Purpose first obtained.

And, We do further strictly enjoin and require all Persons whatever who have either wilfully or inadvertently seated themselves upon any Lands within the Countries above described, or upon any other Lands which, not having been ceded to or purchased by Us, are

THE ROYAL PROCLAMATION

still reserved to the said Indians as aforesaid, forthwith to remove themselves from such Settlements.

And whereas great Frauds and Abuses have been committed in purchasing Lands of the Indians, to the great Prejudice of our Interests, and to the great Dissatisfaction of the said Indians; In order, therefore, to prevent such Irregularities for the future, and to the end that the Indians may be convinced of our Justice and determined Resolution to remove all reasonable Cause of Discontent, We do, with the Advice of our Privy Council strictly enjoin and require, that no private Person do presume to make any purchase from the said Indians of any Lands reserved to the said Indians, within those parts of our Colonies where, We have thought proper to allow Settlement; but that, if at any Time any of the Said Indians should be inclined to dispose of the said Lands, the same shall be Purchased only for Us, in our Name, at some public Meeting or Assembly of the said Indians, to be held for that Purpose by the Governor or Commander in Chief of our Colony respectively within which they shall lie; and in case they shall lie within the limits of any Proprietary Government, they shall be purchased only for the Use and in the name of such Proprietaries, conformable to such Directions and Instructions as We or they shall think proper to give for that Purpose; And we do, by the Advice of our Privy Council, declare and enjoin, that the Trade with the said Indians shall be free and open to all our Subjects whatever, provided that every Person who may incline to Trade with the said Indians do take out a Licence for carrying on such Trade from the Governor or Commander in Chief of any of our Colonies respectively where such Person shall reside, and also give Security to observe such Regulations as We shall at any Time think fit, by ourselves or by our Commissaries to be appointed for this Purpose, to direct and appoint for the Benefit of the said Trade:

And we do hereby authorize, enjoin, and require the Governors and Commanders in Chief of all our Colonies respectively, as well those under Our immediate Government as those under the Government and Direction of Proprietaries, to grant such Licences without Fee or Reward, taking especial Care to insert therein a Condition, that such Licence shall be void, and the Security forfeited in case the Person to whom the same is granted shall refuse or neglect to observe such Regulations as We shall think proper to prescribe as aforesaid.

And we do further expressly enjoin and require all Officers whatever, as well Military as those Employed in the Management and Direction of Indian Affairs, within the Territories reserved as aforesaid for the use of the said Indians, to seize and apprehend all Persons whatever, who standing charged with Treason, Misprisions of Treason, Murders, or other Felonies or Misdemeanors, shall fly from Justice and take Refuge in the said Territory, and to send them under a proper guard to the Colony where the Crime was committed of which they stand accused, in order to take their Trial for the same.

Given at our Court at St. James's the 7th Day of October 1763, in the Third Year of our Reign.

GOD SAVE THE KING

CONSTITUTION ACT, 1867

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CONSTITUTION ACT, 1867

30 & 31 Victoria, c. 3 (U.K.)

An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for Purposes connected therewith

VI. DISTRIBUTION OF LEGISLATIVE POWERS

Powers of the Parliament

91. Legislative Authority of Parliament of Canada. — It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next herein-after enumerated; that is to say, —

24. Indians, and Lands reserved for the Indians.

MANITOBA ACT, 1870

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MANITOBA ACT, 1870

33 Victoria, c. 3 (Canada)

An Act to amend and continue the Act 32 and 33 Victoria, chapter 3; and to establish and provide for the Government of the Province of Manitoba

Preamble. — Whereas it is probable that Her Majesty The Queen may, pursuant to the Constitution Act, 1867, be pleased to admit Rupert's Land and the North-Western Territory into the Union or Dominion of Canada, before the next Session of the Parliament of Canada:

And Whereas it is expedient to prepare for the transfer of the said Territories to the Government of Canada at the time appointed by the Queen for such admission:

And Whereas it is expedient also to provide for the organization of part of the said Territories as a Province, and for the establishment of a Government therefor, and to make provision for the Civil Government of the remaining part of the said Territories, not include within the limits of the Province:

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Province to be formed out of N.W. territory when united to Canada. — On, from and after the day upon which the Queen, by and with the advice and consent of Her Majesty's Most Honorable Privy Council, under the authority of the 146th Section of the Constitution Act, 1867, shall, by Order in Council in that behalf, admit Rupert's Land and the North-Western Territory into the Union or Dominion of Canada, there shall be formed out of the same a Province, which shall be one of the Provinces of the Dominion of Canada, and which shall be called the Province of Manitoba, and be bounded as follows: that is to say, commencing at the point where the meridian of ninety-six degrees west longitude from Greenwich intersects the parallel of forty-nine degrees north latitude, — thence due west along the said parallel of forty-nine degrees north latitude (which forms a portion of the boundary line between the United States of America and the said North-Western Territory) to the meridian of ninety-nine degrees of west longitude, — thence due north along the said meridian of ninety-nine degrees west longitude, to the intersection of the same with the parallel of fifty degrees and thirty minutes north latitude, — thence due east along the said parallel of fifty degrees and thirty minutes north latitude to its intersection with the before-mentioned meridian of ninety-six degrees west longitude, — thence due south along the said meridian of ninety-six degrees west longitude to the place of beginning.

2. Certain provisions of Constitution Act, 1867, to apply to Manitoba. — On, from and after the said day on which the Order of the Queen in Council shall take effect as aforesaid, the provisions of the Constitution Act, 1867, shall, except those parts thereof which are in terms made, or, by reasonable intendment, may be held to be specially applicable to, or only to affect one or more, but not the whole of the Provinces now composing the Dominion, and except so far as the same may be varied by this Act, be applicable to the Province of Manitoba, in the same way, and to the like extent as they apply to the several Provinces of Canada, and as if the Province of Manitoba had been one of the Provinces originally united by the said Act.

3. Representation in the Senate. — The said Province shall be represented in the Senate of Canada by two Members, until it shall have, according to decennial census, a population of fifty thousand souls, and from thenceforth it shall be represented therein by three Members, until it shall have, according to decennial census, a population of seventy-five thousand souls, and from thenceforth it shall be represented therein by four Members.

4. Representation in the House of Commons. — The said Province shall be represented, in the first instance, in the House of Commons of Canada, by four Members, and for that purpose shall be divided by proclamation of the Governor General, into four Electoral Districts, each of which shall be represented by one Member: Provided that on the completion of the census in the year 1881, and of each decennial census afterwards, the representation of the said Province shall be re-adjusted according to the provisions of the fifty-first section of the Constitution Act, 1867.

5. Qualification of voters and members. — Until the Parliament of Canada otherwise provides, the qualification of voters at Elections of Members of the House of Commons shall be the same as for the Legislative Assembly hereinafter mentioned: And no person shall be qualified to be elected, or to sit and vote as a Member for any Electoral District, unless he is a duly qualified voter within the said Province.

6. Lieutenant-Governor. — For the said Province there shall be an officer styled the Lieutenant-Governor, appointed by the Governor General in Council, by instrument under the Great Seal of Canada.

7. Executive Council. — The Executive Council of the Province shall be composed of such persons, and under such designations, as the Lieutenant-Governor shall, from time to time, think fit; and, in the first instance, of not more than five persons.

8. Seat of Government. — Unless and until the Executive Government of the Province otherwise directs, the seat of Government of the same shall be at Fort Garry, or within one mile thereof.

9. Legislature. — There shall be a Legislature for the Province, consisting of the Lieutenant-Governor, and of two Houses, styled respectively, the Legislative Council of Manitoba, and the Legislative Assembly of Manitoba.

10. Legislative Council. — The Legislative Council shall, in the first instance, be composed of seven Members, and after the expiration of four years from the time of the first appointment of such seven Members, may be increased to not more than twelve Members. Every Member of the Legislative Council shall be appointed by the Lieutenant-Governor in the Queen's name, by Instrument under the Great Seal of Manitoba, and shall hold office for the term of his life, unless and until the Legislature of Manitoba otherwise provides under the Constitution Act, 1867.

11. Speaker. — The Lieutenant-Governor may, from time to time, by Instrument under the Great Seal, appoint a Member of the Legislative Council to be Speaker thereof, and may remove him and appoint another in his stead.

12. Quorum. — Until the Legislature of the Province otherwise provides, the presence of a majority of the whole number of the Legislative Council, including the Speaker, shall be necessary to constitute a meeting for the exercise of its powers.

13. Voting. — Questions arising in the Legislative Council shall be decided by a majority

of voices, and the Speaker shall, in all cases, have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

14. Legislative Assembly. — The Legislative Assembly shall be composed of twenty-four Members, to be elected to represent the Electoral Divisions into which the said Province may be divided by the Lieutenant-Governor, as hereinafter mentioned.

15. Quorum. — The presence of a majority of the Members of the Legislative Assembly shall be necessary to constitute a meeting of the House for the exercise of its powers; and for that purpose the Speaker shall be reckoned as a Member.

16. Electoral Divisions. — The Lieutenant-Governor shall (within six months of the date of the Rupert's Land and North-Western Territory Order), by Proclamation under the Great Seal, divide the said Province into twenty-four Electoral Divisions, due regard being had to existing Local Divisions and population.

17. Qualification of voters. — Every male person shall be entitled to vote for a Member to serve in the Legislative Assembly for any Electoral Division, who is qualified as follows, that is to say, if he is:—

1. Of the full age of twenty-one years, and not subject to any legal incapacity;
2. A subject of Her Majesty by birth or naturalization;
3. And a *bona fide* householder within the Electoral Division, at the date of the Writ of Election for the same, and has been a *bona fide* householder for one year next before the said date; or,
4. If, being of the full age of twenty-one years, and not subject to any legal incapacity, and a subject of Her Majesty by birth or naturalization, he was, at any time within twelve months prior to the passing of this Act, and (though in the interim temporarily absent) is at the time of such election a *bona fide* householder, and was resident within the Electoral Division at the date of the Writ of Election for the same:

Proviso. — But this fourth sub-section shall apply only to the first election to be held under this Act for Members to serve in the Legislative Assembly aforesaid.

18. Proceedings at first election, etc., — how regulated. — For the first election of Members to serve in the Legislative Assembly, and until the Legislature of the Province otherwise provides, the Lieutenant-Governor shall cause writs to be issued, by such person, in such form, and addressed to such Returning Officers as he thinks fit; and for such first election, and until the Legislature of the Province otherwise provides, the Lieutenant-Governor shall, by Proclamation, prescribe and declare the oaths to be taken by voters, the powers and duties of Returning and Deputy Returning Officers, the proceedings to be observed at such election, and the period during which such election may be continued, and such other provisions in respect to such first election as he may think fit.

19. Duration of Legislative Assembly. — Every Legislative Assembly shall continue for four years from the date of the return of the writs for returning the same (subject nevertheless to being sooner dissolved by the Lieutenant-Governor), and no longer; and the first Session thereof shall be called at such time as the Lieutenant-Governor shall appoint.

20. [Repealed Constitution Act, 1982, Schedule, item 2.]

21. Certain provisions of Constitution Act, 1867, to apply. — The following provisions of the Constitution Act, 1867, respecting the House of Commons of Canada, shall extend and apply to the Legislative Assembly, that is to say:

— Provisions relating to the election of a Speaker, originally, and on vacancies,—the duties of the Speaker,—the absence of the Speaker and the mode of voting, as if those provisions were here re-enacted and made applicable in terms to the Legislative Assembly.

22. Legislation touching schools subject to certain provisions. — In and for the Province, the said Legislature may exclusively make Laws in relation to Education, subject and according to the following provisions:—

(1) Nothing in any such Law shall prejudicially affect any right or privilege with respect to Denominational Schools which any class of Persons have by Law or practice in the Province at the Union: —

(2) An appeal shall lie to the Governor General in Council from any Act or decision of the Legislature of the Province, or of any Provincial Authority, affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to Education:

(3) **Power reserved to Parliament.** — In case any such Provincial Law, as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section, is not made, or in case any decision of the Governor General in Council on any appeal under this section is not duly executed by the proper Provincial Authority in that behalf, then, and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial Laws for the due execution of the provisions of this section, and of any decision of the Governor General in Council under this section.

23. English and French languages to be used. — Either the English or the French language may be used by any person in the debates of the Houses of the Legislature, and both those languages shall be used in the respective Records and Journals of those Houses; and either of those languages may be used by any person, or in any Pleading or Process, in or issuing from any Court of Canada established under the Constitution Act, 1867, or in or from all or any of the Courts of the Province. The Acts of the Legislature shall be printed and published in both those languages.

24. Interest allowed to the Province on a certain amount of the debt of Canada. — Inasmuch as the Province is not in debt, the said Province shall be entitled to be paid, and to receive from the Government of Canada, by half-yearly payments in advance, interest at the rate of five per centum per annum on the sum of four hundred and seventy-two thousand and ninety dollars.

25. Subsidy to the Province for support of Government, and in proportion to its population. — The sum of thirty thousand dollars shall be paid yearly by Canada to the Province, for the support of its Government and Legislature, and an annual grant, in aid of the said Province, shall be made, equal to eighty cents per head of the population, estimated at seventeen thousand souls; and such grant of eighty cents per head shall be augmented in proportion to the increase of population, as may be shown by the census that shall be taken thereof in the year one thousand eight hundred and eighty-one, and by each subsequent decennial census, until its population amounts to four hundred thousand souls, at which amount such grant shall remain thereafter, and sum shall be in full settlement of all future demands on Canada, and shall be paid half-yearly, in advance, to the said Province.

26. Canada assumes certain expenses. — Canada will assume and defray the charges for the following services: —

1. Salary of the Lieutenant-Governor.

2. Salaries and allowances of the Judges of the Superior and District or County Courts.
3. Charges in respect of the Department of the Customs.
4. Postal Department.
5. Protection of Fisheries.
6. Militia.
7. Geological Survey.
8. The Penitentiary.

9. **General provision.** — And such further charges as may be incident to, and connected with the services which, by the Constitution Act, 1867, appertain to the General Government, and as are or may be allowed to the other Provinces.

27. **Customs duties.** — The Customs duties now by Law chargeable in Rupert's Land, shall be continued without increase for the period of three years from and after the passing of this Act, and the proceeds of such duties shall form part of the Consolidated Revenue Fund of Canada.

28. **Customs laws.** — Such provisions of the Customs Laws of Canada (other than such as prescribe the rate of duties payable) as may be from time to time declared by the Governor General in Council to apply to the Province of Manitoba, shall be applicable thereto, and in force therein accordingly.

29. **Inland Revenue laws and duties.** — Such provisions of the Laws of Canada respecting the Inland Revenue, including those fixing the amount of duties, as may be from time to time declared by the Governor General in Council applicable to the said Province, shall apply thereto, and be in force therein accordingly.

30. **Ungranted lands vested in the Crown for Dominion purposes.** — All ungranted or waste lands in the Province shall be, from and after the date of the said transfer, vested in the Crown, and administered by the Government of Canada for the purposes of the Dominion, subject to, and except and so far as the same may be affected by, the conditions and stipulations contained in the agreement for the surrender of Rupert's Land by the Hudson's Bay Company to Her Majesty.

31. **Provisions as to Indian title.** — And whereas, it is expedient, towards the extinguishment of the Indian Title to the lands in the Province, to appropriate a portion of such ungranted lands, to the extent of one million four hundred thousand acres thereof, for the benefit of the families of the half-breed residents, it is hereby enacted, that, under regulations to be from time to time made by the Governor General in Council, the Lieutenant-Governor shall select such lots or tracts in such parts of the Province as he may deem expedient, to the extent aforesaid, and divide the same among the children of the half-breed heads of families residing in the Province at the time of the said transfer to Canada, and the same shall be granted to the said children respectively, in such mode and on such conditions as to settlement and otherwise, as the Governor General in Council may from time to time determine.

32. **Quieting titles.** — For the quieting of titles, and assuring to the settlers in the Province the peaceable possession of the lands now held by them, it is enacted as follows:—

(1) **Grants by H.B. Company.** — All grants of land in freehold made by the Hudson's Bay Company up to the eighth day of March, in the year 1869, shall, if required by the owner, be confirmed by grant from the Crown.

(2) **The same.** — All grants of estates less than freehold in land made by the Hudson's

Bay Company up to the eighth day of March aforesaid, shall, if required by the owner, be converted into an estate in freehold by grant from the Crown.

(3) **Titles by occupancy with permission.** — All titles by occupancy with the sanction and under the license and authority of the Hudson's Bay Company up to the eighth day of March aforesaid, of land in that part of the Province in which the Indian Title has been extinguished, shall, if required by the owner, be converted into an estate in freehold by grant from the Crown.

(4) **By peaceable possession.** — All persons in peaceable possession of tracts of land at the time of the transfer to Canada, in those parts of the Province in which the Indian Title has not been extinguished, shall have the right of pre-emption of the same, on such terms and conditions as may be determined by the Governor in Council.

(5) **Lieut.-Governor to make provisions under Order in Council.** — The Lieutenant-Governor is hereby authorized, under regulations to be made from time to time by the Governor General in Council, to make all such provisions for ascertaining and adjusting, on fair and equitable terms, the rights of Common, and rights of cutting Hay held and enjoyed by the settlers in the Province, and for the commutation of the same by grants of land from the Crown.

33. Governor in Council to appoint form, etc., of grants. — The Governor General in Council shall from time to time settle and appoint the mode and form of Grants of Land from the Crown, and any Order in Council for that purpose when published in the *Canada Gazette*, shall have the same force and effect as if it were a portion of this Act.

34. Rights of H.B. Company not affected. — Nothing in this Act shall in any way prejudice or affect the rights or properties of the Hudson's Bay Company, as contained in the conditions under which that Company surrendered Rupert's Land to Her Majesty.

35. Lieut.-Governor to govern N.W. Territory for Canada. — And with respect to such portion of Rupert's Land and the North-Western Territory, as is not included in the Province of Manitoba, it is hereby enacted, that the Lieutenant-Governor of the said Province shall be appointed, by Commission under the Great Seal of Canada, to be the Lieutenant-Governor of the same, under the name of the North-West Territories, under the name of the North-West Territories, and subject to the provisions of the Act in the next section mentioned.

36. Act 32 and 33 V., c. 3, extended and continued. — Except as hereinbefore is enacted and provided, the Act of the Parliament of Canada, passed in the now last Session thereof, and entitled, "An Act for the Temporary Government of Rupert's Land, and the North-Western Territory when united with Canada," is hereby re-enacted, extended and continued in force until the first day of January, 1871, and until the end of the Session of Parliament then next succeeding.

ALBERTA ACT

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ALBERTA ACT

4-5 Edward VII, c. 3 (Canada)

An Act to establish and provide for the Government of the Province of Alberta

Preamble. — Whereas in and by the *Constitution Act, 1871*, being chapter 28 of the Acts of the Parliament of the United Kingdom passed in the session thereof held in the 34th and 35th years of the reign of Her late Majesty Queen Victoria, it is enacted that the Parliament of Canada may from time to time establish new provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any province thereof, and may, at the time of such establishment, make provision for the constitution and administration of any such province, and for the passing of laws for the peace, order and good government of such province, and for its representation in the said Parliament of Canada;

And whereas it is expedient to establish as a province the territory hereinafter described, and to make provision for the government thereof and the representation thereof in the Parliament of Canada: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Short title. — This Act may be cited as the *Alberta Act*.

2. Province of Alberta formed; its boundaries. — The territory comprised within the following boundaries, that is to say,—commencing at the intersection of the international boundary dividing Canada from the United States of America by the fourth meridian in the system of Dominion lands surveys; thence westerly along the said international boundary to the eastern boundary of the province of British Columbia; thence northerly along the said eastern boundary of the province of British Columbia to the north-east corner of the said province; thence easterly along the parallel of the sixtieth degree of north latitude to the fourth meridian in the system of Dominion lands surveys as the same may be hereafter defined in accordance with the said system; thence southerly along the said fourth meridian to the point of commencement, — is hereby established as a province of the Dominion of Canada, to be called and known as the province of Alberta.

3. Constitution Acts, 1867 to 1886, to apply. — The provisions of the *Constitution Acts, 1867 to 1886* shall apply to the province of Alberta in the same way and to the like extent as they apply to the provinces heretofore comprised in the Dominion, as if the said province of Alberta had been one of the provinces originally united, except in so far as varied by this Act and except such provisions as are in terms made, or by reasonable intendment may be held to be, specially applicable to or only to affect one or more and not the whole of the said provinces.

4. Representation in the Senate. — The said province shall be represented in the Senate of Canada by four members: Provided that such representation may, after the completion of the next decennial census, be from time to time increased to six by the Parliament of Canada.

5. Representation in the House of Commons. — The said province and the province of Saskatchewan shall, until the termination of the Parliament of Canada existing at the time of the first readjustment hereinafter provided for, continue to be represented in the House of

Commons as provided by chapter 60 of the statutes of 1903, each of the electoral districts defined in that part of the schedule to the said Act which relates to the North-west Territories, whether such district is wholly in one of the said provinces, or partly in one and partly in the other of them, being represented by one member.

6. (1) Readjustment after next quinquennial census. — Upon the completion of the next quinquennial census for the said province, the representation thereof shall forthwith be readjusted by the Parliament of Canada in such manner that there shall be assigned to the said province such a number of members as will bear the same proportion to the number of its population ascertained at such quinquennial census as the number sixty-five bears to the number of the population of Quebec as ascertained at the then last decennial census; and in the computation of the number of members for the said province a fractional part not exceeding one-half of the whole number requisite for entitling the province to a member shall be disregarded, and a fractional part exceeding one-half of that number shall be deemed equivalent to the whole number, and such readjustment shall take effect upon the termination of the Parliament then existing.

(2) Subsequent readjustments. — The representation of the said province shall thereafter be readjusted from time to time according to the provisions of section 51 of the *Constitution Act, 1867*.

7. Election of members of House of Commons. — Until the Parliament of Canada otherwise provides the qualifications of voters for the election of members of the House of Commons and the proceedings at and in connection with elections of such members shall; *mutatis mutandis*, be those prescribed by law at the time this Act comes into force with respect to such elections in the North-west Territories.

8. Executive Council. — The Executive Council of the said province shall be composed of such persons, under such designations, as the Lieutenant Governor from time to time thinks fit.

9. Seat of Government. — Unless and until the Lieutenant Governor in Council of the said province otherwise directs, by proclamation under the Great Seal, the seat of government of the said province shall be at Edmonton.

10. Powers of Lieutenant Governor and Council. — All powers, authorities and functions which under any law were before the coming into force of this Act vested in or exercisable by the Lieutenant Governor of the North-west Territories, with the advice, or with the advice and consent, of the Executive Council thereof, or in conjunction with that Council or with any member or members thereof, or by the said Lieutenant Governor individually, shall, so far as they are capable of being exercised after the coming into force of this Act in relation to the government of the said province, be vested in and shall or may be exercised by the Lieutenant Governor of the said province, with the advice or with the advice and consent of, or in conjunction with, the Executive Council of the said province or any member or members thereof, or by the Lieutenant Governor individually, as the case requires, subject nevertheless to be abolished or altered by the Legislature of the said province.

11. Great Seal. — The Lieutenant Governor in Council shall, as soon as may be after this Act comes into force, adopt and provide a Great Seal of the said province, and may, from time to time, change such seal.

12. Legislature. — There shall be a Legislature for the said province consisting of the Lieutenant Governor and one House to be styled the Legislative Assembly of Alberta.

13. Legislative Assembly. — Until the said Legislature otherwise provides, the Legislative Assembly shall be composed of twenty-five members, to be elected to represent the electoral divisions defined in the schedule to this Act.

14. Election of members of Assembly. — Until the said Legislature otherwise determines, all the provisions of the law with regard to the constitution of the Legislative Assembly of the North-west Territories and the election of members thereof shall apply, *mutatis mutandis*, to the Legislative Assembly of the said province and the elections of members thereof respectively.

15. Writs for first election. — The writs for the election of the members of the first Legislative Assembly of the said province shall be issued by the Lieutenant Governor and made returnable within six months after this Act comes into force.

16. (1) Laws, courts and officers continued. — All laws and all orders and regulations made thereunder, so far as they are not inconsistent with anything contained in this Act, or as to which this Act contains no provision intended as a substitute therefor, and all courts of civil and criminal jurisdiction, and all commissions, powers, authorities and functions, and all officers and functionaries, judicial, administrative and ministerial, existing immediately before the coming into force of this Act in the territory hereby established as the province of Alberta, shall continue in the said province as if this Act and the *Saskatchewan Act* had not been passed; subject, nevertheless, except with respect to such as are enacted by or existing under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, to be repealed, abolished or altered by the Parliament of Canada, or by the Legislature of the said province, according to the authority of the Parliament, or of the said Legislature: Provided that all powers, authorities and functions which, under any law, order or regulation were, before the coming into force of this Act, vested in or exercisable by any public officer or functionary of the North-west Territories shall be vested in and exercisable in and for the said province by like public officers and functionaries of the said province when appointed by competent authority.

(2) Province may abolish Supreme Court of N.W.T. — The legislature of the province may, for all purposes affecting or extending to the said province, abolish the Supreme Court of the North-west Territories, and the offices, both judicial and ministerial, thereof, and the jurisdiction, powers and authority belonging or incident to the said court: Provided that, if, upon such abolition, the Legislature constitutes a superior court of criminal jurisdiction, the procedure in criminal matters then obtaining in respect of the Supreme Court of the Northwest Territories shall, until otherwise provided by competent authority, continue to apply to such superior court, and that the Governor in Council may at any time and from time to time declare all or any part of such procedure to be inapplicable to such superior court.

(3) As to certain corporations in N.W.T. — All societies or associations incorporated by or under the authority of the Legislature of the North-west Territories existing at the time of the coming into force of this Act which include within their objects the regulation of the practice of or the right to practise any profession or trade in the North-west Territories, such as the legal or the medical profession, dentistry, pharmaceutical chemistry and the like, shall continue, subject, however, to be dissolved and abolished by order of the Governor in Council, and each of such societies shall have power to arrange for and effect the payment of its debts and liabilities, and the division, disposition or transfer of its property.

(4) As to joint-stock companies. — Every joint-stock company lawfully incorporated

by or under the authority of any ordinance of the North-west Territories shall be subject to the legislative authority of the province of Alberta if —

- (a) the head office or the registered office of such company is at the time of the coming into force of this Act situate in the province of Alberta; and
- (b) the powers and objects of such company are such as might be conferred by the Legislature of the said province and not expressly authorized to be executed in any part of the North-west Territories beyond the limits of the said province.

17. Education. — Section 93 of the *Constitution Act, 1867* shall apply to the said province, with the substitution for paragraph (1) of the said section 93, of the following paragraph: —

“(1) Nothing in any such law shall prejudicially affect any right or privilege with respect to separate schools which any class of persons have at the date of the passing of this Act, under the terms of chapters 29 and 30 of the Ordinances of the North-west Territories, passed in the year 1901, or with respect to religious instruction in any public or separate school as provided for in the said ordinances.”

(2) In the appropriation by the Legislature or distribution by the Government of the province of any moneys for the support of schools organized and carried on in accordance with the said chapter 29 or any Act passed in amendment thereof, or in substitution therefor, there shall be no discrimination against schools of any class described in the said chapter 29.

(3) Where the expression “by law” is employed in paragraph 3 of the said section 93, it shall be held to mean the law as set out in the said chapters 29 and 30, and where the expression “at the Union” is employed, in the said paragraph 3, it shall be held to mean the date at which this Act comes into force.

18. Subsidy to province. — The following amounts shall be allowed as an annual subsidy to the province of Alberta and shall be paid by the Government of Canada, by half-yearly instalments in advance, to the said province, that is to say: —

- (a) **For government.** — for the support of the Government and Legislature, fifty thousand dollars;
- (b) **In proportion to population.** — on an estimated population of two hundred and fifty thousand, at eighty cents per head, two hundred thousand dollars, subject to be increased as hereinafter mentioned, that is to say: — a census of the said province shall be taken in every fifth year, reckoning from the general census of one thousand nine hundred and one, and an approximate estimate of the population shall be made at equal intervals of time between each quinquennial and decennial census; and whenever the population, by any such census or estimate, exceeds two hundred and fifty thousand, which shall be the minimum on which the said allowance shall be calculated, the amount of the said allowance shall be increased accordingly, and so on until the population has reached eight hundred thousand souls.

19. Annual payment to province. — Inasmuch as the said province is not in debt, it shall be entitled to be paid and to receive from the Government of Canada, by half-yearly payments in advance, an annual sum of four hundred and five thousand three hundred and seventy-five dollars, being the equivalent of interest at the rate of five per cent per annum on the sum of eight million one hundred and seven thousand five hundred dollars.

20. (1) Compensation to province for public lands. — Inasmuch as the said province

will not have the public land as a source of revenue, there shall be paid by Canada to the province by half-yearly payments, in advance, an annual sum based upon the population of the province as from time to time ascertained by the quinquennial census thereof, as follows:—

The population of the said province being assumed to be at present two hundred and fifty thousand, the sum payable until such population reaches four hundred thousand, shall be three hundred and seventy-five thousand dollars;

Thereafter, until such population reaches eight hundred thousand, the sum payable shall be five hundred and sixty-two thousand five hundred dollars;

Thereafter, until such population reaches one million two hundred thousand, the sum payable shall be seven hundred and fifty thousand dollars;

And thereafter the sum payable shall be one million one hundred and twenty-five thousand dollars.

(2) **Further compensation.** — As an additional allowance in lieu of public lands, there shall be paid by Canada to the province annually by half-yearly payments, in advance, for five years from the time this Act comes into force, to provide for the construction of necessary public buildings, the sum of ninety-three thousand seven hundred and fifty dollars.

21. Property in lands, etc. — All Crown lands, mines and minerals and royalties incident thereto, and the interest of the Crown in the waters within the province under *The North-west Irrigation Act*, 1898, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, subject to the provisions of any Act of the Parliament of Canada with respect to road allowances and roads or trails in force immediately before the coming into force of this Act, which shall apply to the said province with the substitution therein of the said province for the North-west Territories.

22. Division of assets and liabilities between Saskatchewan and Alberta. — All properties and assets of the Northwest Territories shall be divided equally between the said province and the province of Saskatchewan, and the two provinces shall be jointly and equally responsible for all debts and liabilities of the North-west Territories: Provided that, if any difference arises as to the division and adjustment of such properties, assets, debts and liabilities, such difference shall be referred to the arbitrament of three arbitrators, one of whom shall be chosen by the Lieutenant Governor in Council of each province, and the third by the Governor in Council. The selection of such arbitrators shall not be made until the Legislatures of the provinces have met, and the arbitrator chosen by Canada shall not be resident of either province.

23. Rights of H.B. Co. — Nothing in this Act shall in any way prejudice or affect the rights or properties of the Hudson's Bay Company as contained in the conditions under which that company surrendered Rupert's Land to the Crown.

24. Provision as to C.P.R. Co. — The powers hereby granted to the said province shall be exercised subject to the provisions of section 16 of the contract set forth in the schedule to chapter 1 of the statutes of 1881, being an Act respecting the Canadian Pacific Railway Company.

25. Commencement of Act. — This Act shall come into force on the first day of September, one thousand nine hundred and five.

CONSTITUTION ACT, 1982

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CONSTITUTION ACT, 1982

PART I

CANADIAN CHARTER OF RIGHTS AND FREEDOMS

Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law:

Guarantee of Rights and Freedoms

1. Rights and freedoms in Canada. — The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Fundamental Freedoms

2. Fundamental freedoms. — Everyone has the following fundamental freedoms:

- (a) freedom of conscience and religion;
- (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
- (c) freedom of peaceful assembly; and
- (d) freedom of association.

Democratic Rights

3. Democratic rights of citizens. — Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.

4. (1) Maximum duration of legislative bodies. — No House of Commons and no legislative assembly shall continue for longer than five years from the date fixed for the return of the writs at a general election of its members.

(2) Continuation in special circumstances. — In time of real or apprehended war, invasion or insurrection, a House of Commons may be continued by Parliament and a legislative assembly may be continued by the legislature beyond five years if such continuation is not opposed by the votes of more than one-third of the members of the House of Commons or the legislative assembly, as the case may be.

5. Annual sitting of legislative bodies. — There shall be a sitting of Parliament and of each legislature at least once every twelve months.

Mobility Rights

6. (1) Mobility of citizens. — Every citizen of Canada has the right to enter, remain in and leave Canada.

(2) **Rights to move and gain livelihood.** — Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right

- (a) to move to and take up residence in any province; and
- (b) to pursue the gaining of a livelihood in any province.

(3) **Limitation.** — The rights specified in subsection (2) are subject to

- (a) any laws or practices of general application in force in a province other than those that discriminate among persons primarily on the basis of province of present or previous residence; and
- (b) any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services.

(4) **Affirmative action programs.** — Subsections (2) and (3) do not preclude any law, program or activity that has as its object the amelioration in a province of conditions of individuals in that province who are socially or economically disadvantaged if the rate of employment in that province is below the rate of employment in Canada.

Legal Rights

7. **Life, liberty and security of person.** — Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

8. **Search or seizure.** — Everyone has the right to be secure against unreasonable search or seizure.

9. **Detention or imprisonment.** — Everyone has the right not to be arbitrarily detained or imprisoned.

10. **Arrest or detention.** — Everyone has the right on arrest or detention

- (a) to be informed promptly of the reasons therefor;
- (b) to retain and instruct counsel without delay and to be informed of that right; and
- (c) to have the validity of the detention determined by way of *habeas corpus* and to be released if the detention is not lawful.

11. **Proceedings in criminal and penal matters.** — Any person charged with an offence has the right

- (a) to be informed without unreasonable delay of the specific offence;
- (b) to be tried within a reasonable time;
- (c) not to be compelled to be a witness in proceedings against that person in respect of the offence;
- (d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;
- (e) not to be denied reasonable bail without just cause;
- (f) except in the case of an offence under military law tried before a military tribunal, to the benefit of trial by jury where the maximum punishment for the offence is imprisonment for five years or a more severe punishment;
- (g) not to be found guilty on account of any act or omission unless, at the time of the act

or omission, it constituted an offence under Canadian or international law or was criminal according to the general principles of law recognized by the community of nations;
 (h) if finally acquitted of the offence, not to be tried for it again and, if finally found guilty and punished for the offence, not to be tried or punished for it again; and
 (i) if found guilty of the offence and if the punishment for the offence has been varied between the time of commission and the time of sentencing, to the benefit of the lesser punishment.

12. Treatment or punishment. — Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.

13. Self-crimination. — A witness who testifies in any proceedings has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings, except in a prosecution for perjury or for the giving of contradictory evidence.

14. Interpreter. — A party or witness in any proceedings who does not understand or speak the language in which the proceedings are conducted or who is deaf has the right to the assistance of an interpreter.

Equality Rights

15. (1) Equality before and under law and equal protection and benefit of law. — Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

(2) Affirmative action programs. — Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

[Note: This section became effective on April 17, 1985. See subsection 32(2) and the note thereto.]

Official Languages of Canada

16. (1) Official languages of Canada. — English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and government of Canada.

(2) Official languages of New Brunswick. — English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the legislature and government of New Brunswick.

(3) Advancement of status and use. — Nothing in this Charter limits the authority of Parliament or a legislature to advance the equality of status or use of English and French.

17. (1) Proceedings of Parliament. — Everyone has the right to use English or French in any debates and other proceedings of Parliament.

(2) Proceedings of New Brunswick legislature. — Everyone has the right to use English or French in any debates and other proceedings of the legislature of New Brunswick.

18. (1) Parliamentary statutes and records. — The statutes, records and journals of Parliament shall be printed and published in English and French and both language versions are equally authoritative.

(2) New Brunswick statutes and records. — The statutes, records and journals of the legislature of New Brunswick shall be printed and published in English and French and both language versions are equally authoritative.

19. (1) Proceedings in courts established by Parliament. — Either English or French may be used by any person in, or in any pleading in or process issuing from, any court established by Parliament.

(2) Proceedings in New Brunswick courts. — Either English or French may be used by any person in, or in any pleading in or process issuing from, any court of New Brunswick.

20. (1) Communications by public with federal institutions. — Any member of the public in Canada has the right to communicate with, and to receive available services from, any head or central office of an institution of the Parliament or government of Canada in English or French, and has the same right with respect to any other office of any such institution where

(a) there is a significant demand for communications with and services from that office in such language; or

(b) due to the nature of the office, it is reasonable that communications with and services from that office be available in both English and French.

(2) Communications by public with New Brunswick institutions. — Any member of the public in New Brunswick has the right to communicate with, and to receive available services from, any office of an institution of the legislature or government of New Brunswick in English or French.

21. Continuation of existing constitutional provisions. — Nothing in sections 16 to 20 abrogates or derogates from any right, privilege or obligation with respect to the English and French languages, or either of them, that exists or is continued by virtue of any other provision of the Constitution of Canada.

22. Rights and privileges preserved. — Nothing in sections 16 to 20 abrogates or derogates from any legal or customary right or privilege acquired or enjoyed either before or after the coming into force of this Charter with respect to any language that is not English or French.

Minority Language Educational Rights

23. (1) Language of instruction. — Citizens of Canada

(a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or

(b) who have received their primary school instruction in Canada in English or French and reside in province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province,

have the right to have their children receive primary and secondary school instruction in that language in that province.

[Note: See also section 59 and the note thereto.]

(2) **Continuity of language instruction.** — Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

(3) **Application where numbers warrant.** — The right of citizens of Canada under subsections (1) and (2) to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province

(a) applies wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction; and

(b) includes, where the number of those children so warrants, the right to have them receive that instruction in minority language educational facilities provided out of public funds.

Enforcement

24. (1) Enforcement of guaranteed rights and freedoms. — Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.

(2) **Exclusion of evidence bringing administration of justice into disrepute.** — Where, in proceedings under subsection (1), a court concludes that evidence was obtained in a manner that infringed or denied any rights or freedoms guaranteed by this Charter, the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute.

General

25. Aboriginal rights and freedoms not affected by Charter. — The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including

(a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and

(b) *any rights or freedoms that may be acquired by the aboriginal peoples of Canada by way of land claims settlement.*

(b) any rights or freedoms that now exist by way of land claims agreements or may be so acquired.

[Note: Paragraph 25(b) (in italics) was repealed and the new paragraph substituted by the *Constitution Amendment Proclamation, 1983* (No. 46 *infra*).]

26. Other rights and freedoms not affected by Charter. — The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights or freedoms that exist in Canada.

27. Multicultural heritage. — This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians.

28. Rights guaranteed equally to both sexes. — Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons.

29. Rights respecting certain schools preserved. — Nothing in this Charter abrogates or derogates from any rights or privileges guaranteed by or under the Constitution of Canada in respect of denominational, separate or dissentient schools.

30. Application to territories and territorial authorities. — A reference in this Charter to a province or to the legislative assembly or legislature of a province shall be deemed to include a reference to the Yukon Territory and the Northwest Territories, or to the appropriate legislative authority thereof, as the case may be.

31. Legislative powers not extended. — Nothing in this Charter extends the legislative powers of any body or authority.

Application of Charter

32. (1) Application of Charter. — This Charter applies

(a) to the Parliament and government of Canada in respect of all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories; and

(b) to the legislature and government of each province in respect of all matters within the authority of the legislature of each province.

(2) Exception. — Notwithstanding subsection (1), section 15 shall not have effect until three years after this section comes into force.

[Note: This section came into force on April 17, 1982. See the proclamation of that date (No. 45 *infra*).]

33. (1) Exception where express declaration. — Parliament or the legislature of a province may expressly declare in an Act of Parliament or of the legislature, as the case may be, that the Act or a provision thereof shall operate notwithstanding a provision included in section 2 or sections 7 to 15 of this Charter.

(2) Operation of exception. — An Act or a provision of an Act in respect of which a declaration made under this section is in effect shall have such operation as it would have but for the provision of this Charter referred to in the declaration.

(3) Five year limitation. — A declaration made under subsection (1) shall cease to have effect five years after it comes into force or on such earlier date as may be specified in the declaration.

(4) Re-enactment. — Parliament or the legislature of a province may re-enact a declaration made under subsection (1).

(5) Five year limitation. — Subsection (3) applies in respect of a re-enactment made under subsection (4).

Citation

34. Citation. — This Part may be cited as the *Canadian Charter of Rights and Freedoms*.

ROBINSON TREATY

With the Ojibewa Indians of Lake Superior conveying certain lands to the Crown

THIS AGREEMENT, made and entered into on the seventh day of September, in the year of Our Lord one thousand eight hundred and fifty, at Sault Ste. Marie, in the Province of Canada, between the Honourable WILLIAM BENJAMIN ROBINSON, of the one part, on behalf of HER MAJESTY THE QUEEN, and JOSEPH PEANDECHAT, JOHN IUINWAY, MISHE-MUCKQUA, TOTOMENCIE, Chiefs, and JACOB WARPELA, AHMUTCHIWA-GABOU, MICHEL SHELAGESHICK, MANITSHAINSE, and CHIGINANS, principal men of the OJIBEWA Indians inhabiting the Northern Shore of Lake Superior, in the said Province of Canada, from Batchewana Bay to Pigeon River, at the western extremity of said Lake, and inland throughout that extent to the height of land which separates the territory covered by the charter of the Honourable the Hudson's Bay Company from the said tract, and also the Islands in the said Lake within the boundaries of the British possessions therein, of the other part, witnesseth:

THAT for and in consideration of the sum of two thousand pounds of good and lawful money of Upper Canada, to them in hand paid, and for the further perpetual annuity of five hundred pounds, the same to be paid and delivered to the said Chiefs and their Tribes at a convenient season of each summer, not later than the first day of August at the Honorable the Hudson's Bay Company's Posts of Michipicoton and Fort William, they the said chiefs and principal men do freely, fully and voluntarily surrender, cede, grant and convey unto Her Majesty, Her heirs and successors forever, all their right, title and interest in the whole of the territory above described, save and except the reservations set forth in the schedule hereunto annexed, which reservations shall be held and occupied by the said Chiefs and their Tribes in common, for the purpose of residence and cultivation, — and should the said Chiefs and their respective Tribes at any time desire to dispose of any mineral or other valuable productions upon the said reservations, the same will be at their request sold by order of the Superintendent General of the Indian Department for the time being, for their sole use and benefit, and to the best advantage.

And the said William Benjamin Robinson of the first part, on behalf of Her Majesty and the Government of this Province, hereby promises and agrees to make the payments as before mentioned; and further to allow the said chiefs and their tribes the full and free privilege to hunt over the territory now ceded by them, and to fish in the waters thereof as they have heretofore been in the habit of doing, saving and excepting only such portions of the said territory as may from time to time be sold or leased to individuals, or companies of individuals, and occupied by them with the consent of the Provincial Government. The parties of the second part further promise and agree that they will not sell, lease, or otherwise dispose of any portion of their reservations without the consent of the Superintendent General of Indian Affairs being first had and obtained; nor will they at any time hinder or prevent persons from exploring or searching for mineral or other valuable productions in any part of the territory hereby ceded to Her Majesty as before mentioned. The parties of the second part also agree that in case the Government of this Province should before the date of this agreement have sold, or bargained to sell, any mining locations or other property on the portions of the territory hereby reserved for their use and benefit, then and in that case such sale, or promise of sale, shall be forfeited,

ROBINSON TREATY

if the parties interested desire it, by the Government, and the amount accruing therefrom shall be paid to the tribe to whom the reservation belongs. The said William Benjamin Robinson on behalf of Her Majesty, who desires to deal liberally and justly with all Her subjects, further promises and agrees that in case the territory hereby ceded by the parties of the second part shall at any future period produce an amount which will enable the Government of this Province without incurring loss to increase the annuity hereby secured to them, then, and in that case, the same shall be augmented from time to time, provided that the amount paid to each individual shall not exceed the sum of one pound provincial currency in any one year, or such further sum as Her Majesty may be graciously pleased to order; and provided further that the number of Indians entitled to the benefit of this Treaty shall amount to two thirds of their present numbers (which is twelve hundred and forty) to entitle them to claim the full benefit thereof, and should their numbers at any future period not amount to two thirds of twelve hundred and forty, the annuity shall be diminished in proportion to their actual numbers.

Schedule of Reservations made by the above named and subscribing Chiefs and principal men.

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ROBINSON TREATY

With the Ojibewa Indians of Lake Huron conveying certain lands to the Crown

THIS AGREEMENT, *made and entered into this ninth day of September, in the year of our Lord one thousand eight hundred and fifty, at Sault Ste. Marie, in the Province of Canada, between the Honourable WILLIAM BENJAMIN ROBINSON, of the one part, on behalf of HER MAJESTY THE QUEEN, and SHINGUACOUSE NEBENAIGOCHING, KEOKOUSE, MISHEQUONGA, TAGAWINI, SHABOKISHICK, DORIS, PONEKEOSH, WINDAWTEGOWINNI, SHAWENAKESHICK, NAMASSIN, NAOQUAGABO, WABAKEKIK, KITCHEPOSSIGUN by PAPASAINSE, WAGEMAKI, PAMEQUONASHEUNG, Chiefs; and JOHN BELL, PAQWATCHINI, MASHEKY-ASH, IDOWEKESIS, WAQUACOMICK, OCHEEK, METIGOMIN, WATACHEWANA, MINWAWAPENASSE, SHENAOQUOM, ONINGEGUN, PANAISSY, PAPASAINSE, ASHEWASEGA, KAGESHEWAWETUNG, SHAWONEBIN; and also Chief MAISQUASO (also Chiefs MUCKATA, MISHOQUET, AND MEKIS), and MISHOQUETTO and ASA WASWANAY and PAWISS, principal men of the OJIBEWA INDIANS, inhabiting and claiming the Eastern and Northern Shores of Lake Huron, from Penetanguishine to Sault Ste. Marie, and thence to Batchewanaung Bay, on the Northern Shore of Lake Superior; together with the Islands in the said Lakes, opposite to the Shores thereof, and inland to the Height of land which separates the Territory covered by the charter of the Honourable Hudson Bay Company from Canada; as well as all unconceded lands within the limits of Canada West to which they have any just claim, of the other part, witnesseth:*

THAT for, and in consideration of the sum of two thousand pounds of good and lawful money of Upper Canada, to them in hand paid, and for the further perpetual annuity of six hundred pounds of like money, the same to be paid and delivered to the said Chiefs and their Tribes at a convenient season of each year, of which due notice will be given, at such places as may be appointed for that purpose, they the said Chiefs and Principal men, on behalf of their respective Tribes or Bands, do hereby fully, freely, and voluntarily surrender, cede, grant, and convey unto Her Majesty, her heirs and successors for every, all their right, title, and interest to, and in the whole of, the territory above described, save and except the reservations set forth in the schedule hereunto annexed; which reservations shall be held and occupied by the said Chiefs and their Tribes in common, for their own use and benefit.

And should the said Chiefs and their respective Tribes at any time desire to dispose of any part of such reservations, or of any mineral or other valuable productions thereon, the same will be sold or leased at their request by the Superintendent-General of Indian Affairs for the time being, or other officer having authority so to do, for their sole benefit, and to the best advantage.

And the said William Benjamin Robinson of the first part, on behalf of Her Majesty and the Government of this Province, hereby promises and agrees to make, or cause to be made, the payments as before mentioned; and further to allow the said Chiefs and their Tribes the full and free privilege to hunt over the Territory now ceded by them, and to fish in the waters thereof, as they have heretofore been in the habit of doing; saving and excepting such portions of the said Territory as may from time to time be sold or leased to individuals or companies of individuals, and occupied by them with the consent of the Provincial Government.

The parties of the second part further promise and agree that they will not sell, lease, or

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otherwise dispose of any portion of their Reservations without the consent of the Superintendent-General of Indian Affairs, or other officer of like authority, being first had and obtained. Nor will they at any time hinder or prevent persons from exploring or searching for minerals, or other valuable productions, in any part of the Territory hereby ceded to Her Majesty, as before mentioned. The parties of the second part also agree, that in case the Government of this Province should before the date of this agreement have sold, or bargaining to sell, any mining locations, or other property, on the portions of the Territory hereby reserved for their use; then and in that case such sale, or promise of sale, shall be perfected by the Government, if the parties claiming it shall have fulfilled all the conditions upon which such locations were made, and the amount accruing therefrom shall be paid to the Tribe to whom the Reservation belongs.

The said William Benjamin Robinson, on behalf of Her Majesty, who desires to deal liberally and justly with all her subjects, further promises and agrees, that should the Territory hereby ceded by the parties of the second part at any future period produce such an amount as will enable the Government of this Province, without incurring loss, to increase the annuity hereby secured to them, then and in that case the same shall be augmented from time to time, provided that the amount paid to each individual shall not exceed the sum of one pound Provincial Currency in any one year, or such further sum as Her Majesty may be graciously pleased to order; and provided further that the number of Indians entitled to the benefit of this treaty shall amount to two-thirds of their present number, which is fourteen hundred and twenty-two, to entitle them to claim the full benefit thereof. And should they not at any future period amount to two-thirds of fourteen hundred and twenty-two, then the said annuity shall be diminished in proportion to their actual numbers.

The said William Benjamin Robinson of the first part further agrees, on the part of Her Majesty and the Government of this Province, that in consequence of the Indians inhabiting French River and Lake Nipissing having become parties to this treaty, the further sum of one hundred and sixty pounds Provincial Currency shall be paid in addition to the two thousand pounds above mentioned.

Schedule of Reservations made by the above named and subscribing Chiefs and principal men.

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INDIAN TREATY

Between His Majesty the King and the Chippewa Indians of Christian Island, Georgina Island and Rama

ARTICLES OF A TREATY made and concluded on the thirty-first day of October, in the year of Our Lord One thousand nine hundred and twenty-three, between His Most Gracious Majesty, George the Fifth, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, Emperor of India, by His Commissioners; Angus Seymour Williams, of the City of Ottawa, in the Province of Ontario, Esquire, Barrister-at-law, and Departmental Solicitor of the Department of Indian Affairs; Robert Victor Sinclair, of the said City of Ottawa, Esquire, One of His Majesty's Council, learned in the law, and Uriah McFadden, of the City of Sault Sainte Marie, in the said Province, Esquire, one of His Majesty's Counsel learned in the law; the said Angus Seymour Williams, Chairman of the said Commission, representing the Dominion of Canada, and the said Robert Victor Sinclair and Uriah McFadden, representing the Province of Ontario, of the One Part; and the Members of the Chippewa Tribe, inhabiting, as members of Bands thereof, reserves at Christian Island, Georgina Island and Rama, all in the Province of Ontario, by their Chiefs and Headmen, of the Other Part.

WHEREAS, the Chippewa Tribe above described, having claimed to be entitled to certain interests in the lands in the Province of Ontario, hereinafter described, such interests being the Indian title of the said tribe to fishing, hunting and trapping rights over the said lands, of which said rights His Majesty through His said Commissioners, is desirous of obtaining a surrender, and for such purpose has appointed the said Commissioners, with power on behalf of His said Majesty, to enquire into the validity of the claims of the said tribe, and, in the event of the said Commissioners determining in favour of the validity thereof, to negotiate a treaty with the said tribe for the surrender of the said rights upon the payment of such compensation therefor as may seem to the said Commissioners to be just and proper:

AND WHEREAS the said Commissioners, having duly made the said enquiry, have determined in favour of the validity of the said rights.

AND WHEREAS the Indians belonging to the said tribe, having been duly convened in council, at the respective places named hereunder, and having been requested by the said Commissioners to name certain chiefs and headmen to be authorized on their behalf to conduct negotiations with the said Commissioners for a surrender of the said rights and to sign a treaty in respect thereof and to become responsible to His Majesty for the faithful performance by the said tribe and by the respective bands thereof inhabiting the said reserves, of such obligations as shall be assumed by them under such treaty, the said Indians have therefor appointed for the purpose aforesaid the several chiefs and headmen who have subscribed to this treaty:

AND WHEREAS the said Commissioners, acting under the powers in them reposed as aforesaid, have negotiated the present treaty with the said tribe:

NOW THEREFORE THIS TREATY WITNESSETH that the said tribe and the Indians composing the same, occupying as members of bands the said reserves, by their chiefs and headmen, duly authorized thereunto, as aforesaid, do hereby cede, release, surrender and yield up to the government of the Dominion of Canada for His Majesty and King and His Successors forever,

INDIAN TREATY

all their right, title, interest, claim, demand and privileges whatsoever, in, to, upon, or in respect of the lands and premises described as follows, that is to say:

FIRSTLY: All that parcel of land situate in the Province of Ontario and described as commencing on the northeasterly shore of Georgian Bay at that mouth of the French River which forms the boundary between the District of Parry Sound and the District of Sudbury; thence southerly and easterly along the shores of Georgian Bay to that point on Matchedash Bay where the land included in the surrender of the eighteenth day of November, 1815, of record in Book of Surrenders, Volume I, is reached, and including all the islands in the Georgian Bay waters in which the Indians making this treaty have any interest; thence along the easterly limit of the said lands purchased in 1815 to the Narrows between Lake Couchiching and Lake Simcoe; thence due east across the said Narrows; thence southerly and easterly following the east side of the Narrows and the north shore of Lake Simcoe to the foot of McPhee Bay off the northerly part of Lake Simcoe; thence by a straight line easterly to a point thirty-three miles north of the northwest corner of the Township of Rawdon measured along the division line between the Counties of Hastings and Peterborough, which point is the most western northwest corner of the parcel surrendered on the twenty-eight day of November, 1822 (noted in Volume I of the Book of Surrenders as number twenty-seven and one-quarter, 271/4); thence following the north and west boundaries of the last mentioned parcel to the Ottawa River; thence westerly along the interprovincial boundary to the mouth of the Mattawa River; thence westerly by the waters of Mattawa River, Talon Chute and Talon Lake, Turtle Lake, and Trout Lake to the westerly point of Trout Lake; thence to the shore of Lake Nipissing at North Bay; thence by the north shore of Lake Nipissing to the French River; thence by those waters along the division line between the Districts of Parry Sound and Sudbury to the place of commencement: Excepting thereout and therefrom those lands which have already been set aside as Indian Reserves. The parcel hereby surrendered contains seventeen thousand, six hundred square miles, more or less.

SECONDLY: All that parcel of land situate in the Province of Ontario and described as parts of the Counties of Northumberland, Durham, Ontario and York, commencing at the point where the easterly limit of that portion of the lands said to have been ceded in 1787, which was confirmed on the first day of August, 1805, of record as number thirteen in Volume I of the Book of Surrenders, intersects the northerly shore of Lake Ontario; thence northerly along the said easterly and northerly limits of the confirmed tract to the Holland River; thence northerly along the Holland River and along the westerly shore of Lake Simcoe and Kempenfelt Bay to the Narrows between Lake Couchiching and Lake Simcoe; thence easterly along the Talbot River to the boundary between the Townships of Victoria and Ontario; thence southerly along that boundary to the northwest angle of the Township of Darlington, Clarke, Hope and Hamilton to Rice Lake; thence along the southern shore of said lake to River Trent along the River Trent to the Bay of Quinte; thence westerly and southerly along the shore of the Bay of Quinte to the road leading to Carrying Place and Wellers Bay; thence westerly along the northern shore of Lake Ontario to the place of beginning; excepting thereout and therefrom those lands which have already been set aside as Indian reserves. The land hereby conveyed contains two thousand, five hundred square miles more or less.

AND ALSO all the right, title, interest, claim, demand and privileges whatsoever of the said Indians, in to, upon or in respect of all other lands, situate in the Province of Ontario to which they ever had, now have, or now claim to have any right, title, interest, claim, demand or privileges, except such reserves as have heretofore been set apart for them by His Majesty the King.

INDIAN TREATY

TO HAVE AND TO HOLD the same to His Majesty the King and His Successors forever:

AND THIS TREATY FURTHER WITNESSETH that in consideration of the aforesaid surrender, His Majesty, through His said Commissioners, hereby agrees, upon the execution of a treaty similar to this treaty by the Mississauga tribe inhabiting as members of bands, reserves at Rice Lake, Mud Lake, Scugog Lake and Alderville, in the Province of Ontario, to pay to each member of the said Chippewa tribe, being also a member of one of the said bands, the sum of twenty-five dollars, to be paid through the Indian agents for the respective bands, within a reasonable time after the execution of the said treaties, and a further sum of — 233,375.00 dollars — to be administered for the said tribe by His Majesty's Department of Indian Affairs under and pursuant to the provisions of the Indian Act, Revised Statutes of Canada, 1906, Chapter 43 and its amendments: Making together the sum of two hundred and fifty thousand dollars.

AND THE UNDERSIGNED chiefs and headmen, on their own behalf and on behalf of all the Indians whom they represent, do hereby solemnly covenant, promise and agree to strictly observe this treaty in all respects and that they will not, nor will any of them, nor will any of the Indians whom they represent, molest or interfere with the person or property of anyone who now inhabits or shall hereafter inhabit any portion of the lands covered by this treaty, or interfere with, trouble, or molest any person passing or travelling through the said lands or any part thereof, and that they will assist the officers of His Majesty in bringing to justice and punishment any Indian, party to this treaty, who may hereafter offend against the stipulations hereof or infringe the laws in force in the lands covered hereby:

AND IT IS FURTHER UNDERSTOOD that this treaty is subject to an agreement dated the day of April, A.D. 1923, made between the Dominion of Canada and the Province of Ontario, a copy of which is hereto attached.

IN WITNESS WHEREOF, His Majesty's said Commissioners and the said chiefs and headmen have hereunto set their hands and seals at the places and times hereinafter set forth, in the year herein first above written.

SIGNED AND SEALED at Georgina Island on the thirty-first day of October, A.D. 1923, by His Majesty's Commissioners and the undersigned chiefs and headmen in the presence of the undersigned witnesses, after first having been interpreted and explained.

INDIAN TREATY

Between His Majesty the King and the Mississauga Indians of Rice Lake, Mud Lake, Scugog Lake and Alderville

ARTICLES OF A TREATY made and concluded on the fifteenth day of November in the year of Our Lord One thousand nine hundred and twenty-three, between His Most Gracious Majesty, George the Fifth, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, Emperor of India, by His Commissioners, Angus Seymour Williams, of the City of Ottawa, in the Province of Ontario, Esquire, Barrister-at-law, and Departmental Solicitor of the Department of Indian Affairs: Robert Victor Sinclair, of the said City of Ottawa, Esquire, one of His Majesty's Counsel learned in the law, and Uriah McFadden of the City of Sault Sainte Marie, in the said Province, Esquire, one of His Majesty's Counsel learned in the law, the said Angus Seymour Williams, Chairman of the said Commission, representing the Dominion of Canada, and the said Robert Victor Sinclair and Uriah McFadden, representing the Province of Ontario, of the One Part, and the members of the Mississauga Tribe, inhabiting, as members of bands thereof, reserves at Rice Lake, Mud Lake, Scugog Lake and Alderville, all in the Province of Ontario, by their chiefs and headmen, of the Other Part.

WHEREAS the Mississauga Tribe above described, having claimed to be entitled to certain interests in the lands in the Province of Ontario, hereinafter described, such interests being the Indian title of the said tribe to fishing, hunting and trapping rights over the said lands, of which said rights, His Majesty, through His said Commissioners, is desirous of obtaining a surrender, and for such purpose has appointed the said Commissioners, with power on behalf of His said Majesty, to enquire into the validity of the claims of the said tribe, and, in the event of the said Commissioners determining in favour of the validity thereof, to negotiate a treaty with the said tribe for the surrender of the said rights upon the payment of such compensation therefor as may seem to the said Commissioners to be just and proper:

AND WHEREAS the said Commissioners, having duly made the said enquiry, have determined in favour of the validity of the said rights.

AND WHEREAS the Indians belonging to the said tribe, having been duly convened in Council, at the respective places named hereunder, and having been requested by the said Commissioners to name certain chiefs and headmen to be authorized on their behalf to conduct negotiations with the said Commissioners for a surrender of the said rights and to sign a treaty in respect thereof and to become responsible to His Majesty for the faithful performance by the said tribe and by the respective bands thereof inhabiting the said reserves, of such obligations as shall be assumed by them under such treaty, the said Indians have therefore appointed for the purposes aforesaid the several chiefs and headmen who have subscribed to this treaty:

AND WHEREAS the said Commissioners, acting under the powers in them reposed as aforesaid, have negotiated the present treaty with the said tribe:

NOW THEREFORE THIS TREATY WITNESSETH that the said tribe and the Indians composing the same, occupying as members of bands the said reserves by their chiefs and headmen, duly authorized thereunto as aforesaid, do hereby cede, release, surrender and yield up to the Government of the Dominion of Canada for His Majesty the King and His Successors forever,

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all their right, title, interest, claim, demand and privileges whatsoever, in, to, upon, or in respect of the lands and premises described as follows, that is to say:

FIRSTLY: All that parcel of land situate in the Province of Ontario and described as commencing on the northeasterly shore of Georgian Bay at that mouth of the French River which forms the boundary between the District of Parry Sound and the District of Sudbury; thence southerly and easterly along the shores of Georgian Bay to that point on Matchedash Bay where the land included in the surrender of the eighteenth day of November, 1815, of record in Book of Surrenders, Volume One, is reached, and including all the islands in the Georgian Bay waters in which the Indians making this treaty have any interest; thence along the easterly limit of the said lands purchased in 1815 to the Narrows between Lake Couchiching and Lake Simcoe; thence due east across the said Narrows; thence southerly and easterly following the east side of the Narrows and the north shore of Lake Simcoe to the foot of McPhee Bay off the northerly part of Lake Simcoe; thence by a straight line easterly to a point thirty-three miles north of the northwest corner of the Township of Rawdon measured along the division line between the Counties of Hastings and Peterborough, which point is the most western northwest corner of the parcel surrendered on the twenty-eighth day of November, 1822 (noted in Volume One of the Book of Surrenders as number twenty-seven and one-quarter, 271/4); thence following the north and west boundaries of the last mentioned parcel to the Ottawa River; thence westerly along the interprovincial boundary to the mouth of the Mattawa River; thence westerly by the waters of Mattawa River, Talon Chute and Talon Lake, Turtle Lake and Trout Lake to the westerly point of Trout Lake; thence to the shore of Lake Nipissing at North Bay; thence by the north shore of Lake Nipissing to the French River; thence by those waters along the division line between the Districts of Parry Sound and Sudbury to the place of commencement: Excepting thereout and therefrom those lands which have already been set aside as Indian reserves. The parcel hereby surrendered contains seventeen thousand six hundred square miles, more or less.

SECONDLY: All that parcel of land situate in the Province of Ontario and described as parts of the Counties of Northumberland, Durham, Ontario and York, commencing at the point where the easterly limit of that portion of the lands said to have been ceded in 1787, which was confirmed on the first of August, 1805, of record as number thirteen, in Volume One, of the Book of Surrenders, intersects the northerly shore of Lake Ontario; thence northerly along the said easterly and northerly limits of the confirmed tract to the Holland River; thence northerly along the Holland River and along the westerly shore of Lake Simcoe and Kempenfelt Bay to the Narrows between Lake Couchiching and Lake Simcoe; thence southeasterly along the shores of Lake Simcoe to the Talbot River; thence easterly along the Talbot River to the boundary between the Counties of Victoria and Ontario; thence southerly along that boundary to the northwest angle of the Township of Darlington; thence along the northerly boundary line of the Townships of Darlington, Clarke, Hope and Hamilton to Rice Lake; thence along the southern shore of said lake to River Trent and along the River Trent to the Bay of Quinte; thence westerly and southerly along the shore of the Bay of Quinte to the road leading to Carrying Place and Weller's Bay; thence westerly along the northern shore of Lake Ontario to the place of beginning: Excepting thereout and therefrom those lands which have already been set aside as Indian Reserves. The land hereby conveyed contains two thousand five hundred square miles, more or less.

AND ALSO all the right, title, interest, claim, demand and privileges whatsoever of the said Indians, in, to, upon or in respect of all other lands situate in the Province of Ontario to which they ever had, now have, or now claim to have any right, title, interest, claim, demand or

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privileges, except such reserves as have heretofore been set apart for them by His Majesty the King.

TO HAVE AND TO HOLD the same to His Majesty the King and His Successors, forever:

AND THIS TREATY FURTHER WITNESSETH that in consideration of the aforesaid surrender, His Majesty, through His said Commissioners, hereby agrees, upon the execution of a treaty similar to this treaty by the Chippewa Tribe inhabiting as members of bands, reserves at Christian Island, Georgina Island and Rama, in the Province of Ontario, to pay to each member of the said Mississauga Tribe, being also a member of one of the said bands, the sum of twenty-five dollars, to be paid through the Indian agents for the respective bands, with a reasonable time after the execution of the said treaties, and a further sum of — 233,425.00 dollars — to be administered for the said tribe by His Majesty's Department of Indian Affairs under and pursuant to the provisions of the Indian Act, Revised Statutes of Canada, 1906, Chapter Forty-three and its amendments; making together the sum of 250,000.00 dollars.

AND THE UNDERSIGNED chiefs and headmen, on their own behalf and on behalf of all the Indians whom they represent, do hereby solemnly covenant, promise and agree to strictly observe this treaty in all respects and that they will not, nor will any of them, nor will any of the Indians whom they represent, molest or interfere with the person or property of anyone who now inhabits or shall hereafter inhabit any portion of the lands covered by this treaty, or interfere with, trouble, or molest any person passing or travelling through the said lands or any part thereof, and that they will assist the officers of His Majesty in bringing to justice and punishment any Indian, party to this treaty, who may hereafter offend against the stipulations hereof or infringe the laws in force in the lands covered hereby:

AND IT IS FURTHER UNDERSTOOD that this treaty is subject to an agreement dated the day of April, A.D. 1923, made between the Dominion of Canada and the Province of Ontario, a copy of which is hereto attached.

IN WITNESS WHEREOF, His Majesty's said Commissioners and the said chiefs and headmen have hereunto set their hands and seals at the places and times hereinafter set forth, in the year herein first above written.

SIGNED AND SEALED at Alderville on the nineteenth day of November, A.D. 1923, by His Majesty's Commissioners and the undersigned chiefs and headmen in the presence of the undersigned witnesses, after first having been interpreted and explained.

THE JAY TREATY, 1794

Treaty of Amity Commerce and Navigation

Concluded November 19, 1794; ratification advised by the senate with amendment June 24, 1795; ratified by the President; ratifications exchanged October 28, 1795; proclaimed February 29, 1796.

His Britannic Majesty and the United States of America, being desirous, by a treaty of amity, commerce and navigation, to terminate their difference in such a manner, as, without reference to the merits of their respective complaints and pretensions, may be the best calculated to produce mutual satisfaction and good understanding; and also to regulate the commerce and navigation between their respective countries, territories and people, in such a manner as to render the same reciprocally beneficial and satisfactory; they have, respectively, named their Plenipotentiaries,

Who have agreed on and concluded the following articles:

ARTICLE III.

It is agreed that it shall at all times be free to His Majesty's subjects, and to the citizens of the United States, and also to the Indians dwelling on either side of the said boundary line, freely to pass and repass by land or inland navigation, into the respective territories and countries of the two parties, on the continent of America, (the country within the limits of the Hudson's Bay Company only excepted.) and to navigate all the lakes, rivers and waters thereof, and freely to carry on trade and commerce with each other. But it is understood that this article does not extend to the admission of vessels of the United States into the sea-ports, harbours, bays or creeks of His Majesty's said territories; nor into such parts of the rivers in His Majesty's said territories as are between the mouth thereof, and the highest port of entry from the sea, except in small vessels trading bona fide between Montreal and Quebec, under such regulations as shall be established to prevent the possibility of any frauds in this respect. Nor to the admission of British vessels from the sea into the rivers of the United States, beyond the highest ports of entry for foreign vessels from the sea. The river Mississippi shall, however, according to the treaty of peace, be entirely open to both parties; and it is further agreed, that all the ports and places on its eastern side, to whichever of the parties belonging, may freely be resorted to and used by both parties, in as ample a manner as any of the Atlantic ports or placed of the United States, or any of the ports or places of His Majesty in Great Britain.

All goods and merchandize whose importation into His Majesty's said territories in America shall not be entirely prohibited, may freely, for the purposes of commerce, be carried into the same in the manner aforesaid, by the citizens of the United States, and such goods and merchandize shall be subject to no higher or other duties than would be payable by His Majesty's subjects on the importation of the same from Europe into the said territories. And in like manner all goods and merchandize whose importation into the United States shall not be wholly prohibited, may freely, for the purposes of commerce, be carried into the same, in the manner aforesaid, by His Majesty's subjects, and such goods and merchandize shall be subject to no higher or other duties than would be payable by the citizens of the United States on the importation of the same in American vessels into the Atlantic ports of the said States. And all

goods not prohibited to be exported from the said territories respectively, may in like manner be carried out of the same by the two parties respectively, paying duty as aforesaid.

No duty of entry shall ever be levied by either party on peltries brought by land or inland navigation into the said territories respectively, nor shall the Indians passing or repassing with their own proper goods and effects of whatever nature, pay for the same any impost or duty whatever. But goods in bales, or other large packages, unusual among Indians, shall not be considered as goods belonging bona fide to Indians.

No higher or other tolls or rates of ferriage than what are or shall be payable by natives, shall be demanded on either side; and no duties shall be payable on any goods which shall merely be carried over any of the portages or carrying-places on either side, for the purpose of being immediately re-embarked and carried to some other place or places. But as a free passage across the portages on both sides, it is agreed that this exemption from duty shall extend only to such goods as are carried in the usual and direct road across the portage, and are not attempted to be in any manner sold or exchanged during their passage across the same, and proper regulations may be established to prevent the possibility of any frauds in this respect.

As this article is intended to render in a great degree the local advantages of each party common to both, and thereby to promote a disposition favorable to friendship and good neighborhood, it is agreed that the respective Governments will mutually promote this amicable intercourse, by causing speedy and impartial justice to be done, and necessary protection to be extended to all who may be concerned therein.

EXPLANATORY ARTICLE TO THE THIRD ARTICLE OF THE TREATY OF NOVEMBER 19, 1794, RESPECTING THE LIBERTY TO PASS AND REPASS THE BORDERS AND TO CARRY ON TRADE AND COMMERCE.

Concluded May 4, 1796; Ratification advised by Senate May 9, 1796.

Whereas by the third article of the treaty of amity, commerce and navigation, concluded at London on the nineteenth day of November, one thousand seven hundred and ninety-four, between His Britannic Majesty and the United States of America, it was agreed that it should at all times be free to His Majesty's subjects and to the citizens of the United States, and also to the Indians dwelling on either side of the boundary line, assigned by the treaty of peace to the United States, freely to pass and repass, by land or inland navigation, into the respective territories and countries of the two contracting parties, on the continent of America, (the country within the limits of the Hudson's Bay Company only excepted,) and to navigate all the lakes, rivers, and waters thereof, and freely to carry on trade and commerce with each other, subject to the provisions and limitations contained in the said article: And whereas by the eighth article of the treaty of peace and friendship concluded at Greenville on the third day of August, one thousand seven hundred and ninety-five, between the United States and the nations or tribes of Indians called the Wyandots, Delawares, Shawanoes, Ottawas, Chippewas, Putawatimies, Miamis, Eel River, Weas, Kickappos, Piankoshaws, and Kaskaskias, it was stipulated that no person should be permitted to reside at any of the towns or the hunting camps of the said Indian tribes, as a trader, who is not furnished with a licence for that purpose under the authority of the United States: Which latter stipulation has excited doubts, whether in its operation it may not interfere with the due execution of the third article of the treaty of amity, commerce and navigation: And it being the sincere desire of His Britannic Majesty and of the United States that this point should be so explained as to remove all doubts and promote mutual satisfaction and friendship: And for this purpose His Britannic Majesty having named for his Commissioner,

Phineas Bond, Esquire, His Majesty's Consul-General for the Middle and Southern States of America, (and now His Majesty's Chargé d'Affaires to the United States,) and the President of the United States having named for their Commissioner, Timothy Pickering, Esquire, Secretary of State of the United States, to whom, agreeably to the laws of the United States, he has intrusted this negotiation: They, the said Commissioners, having communicated to each other their full powers, have, in virtue of the same, and conformably to the spirit of the last article of the said treaty of amity, commerce and navigation, entered into this explanatory article, and do by these presents explicitly agree and declare, that no stipulations in any treaty subsequently concluded by either of the contracting parties with any other State or nation, or with any Indian tribe, can be understood to derogate in any manner from the rights of free intercourse and commerce, secured by the aforesaid third article of the treaty of amity, commerce and navigation, to the subjects of His Majesty and to the citizens of the United States, and to the Indians dwelling on either side of the boundary line aforesaid; but that all the said persons shall remain at full liberty freely to pass and repass, by land or inland navigation, into the respective territories and countries of the contracting parties, on either side of the said boundary line, and freely to carry on trade and commerce with each other, according to the stipulations of the said third article of the treaty of amity, commerce and navigation.

This explanatory article, when the same shall have been ratified by His Majesty and by the President of the United States, by and with the advice and consent of their Senate, and the respective ratifications mutually exchanged, shall be added to and make a part of the said treaty of amity, commerce and navigation, and shall be permanently binding upon His Majesty and the United States.

In witness whereof we, the said Commissioners of His Majesty the King of Great Britain and the United States of America, have signed this present explanatory article, and thereto affixed our seals.

Done at Philadelphia this fourth day of May, in the year of our Lord one thousand seven hundred and ninety-six.

TREATY NO. 1

Between Her Majesty the Queen and the Chippewa and Cree Indians of Manitoba and country adjacent with adhesions

ARTICLES OF A TREATY made and concluded this third day of August in the year of Our Lord one thousand eight hundred and seventy-one, between Her Most Gracious Majesty the Queen of Great Britain and Ireland by Her Commissioner, Wemyss M. Simpson, Esquire, of the one part, and the Chippewa and Swampy Cree Tribes of Indians, inhabitants of the country within the limits hereinafter defined and described, by their Chiefs chosen and named as hereinafter mentioned, of the other part.

Whereas all the Indians inhabiting the said country have pursuant to an appointment made by the said Commissioner, have convened at a meeting at the Stone Fort, otherwise called Lower Fort Garry, to deliberate upon certain matters of interest to Her Most Gracious Majesty, of the one part, and to the said Indians of the other, and whereas the said Indians have been notified and informed by Her Majesty's said Commissioner that it is the desire of Her Majesty to open up to settlement and immigration a tract of country bounded and described as hereinafter mentioned, and to obtain the consent thereto of her Indian subjects inhabiting the said tract, and to make a treaty and arrangements with them so that there may be peace and good will between them and Her Majesty, and that they may know and be assured of what allowance they are to count upon and receive year by year from Her Majesty's bounty and benevolence.

And whereas the Indians of the said tract, duly convened in council as aforesaid, and being requested by Her Majesty's said Commissioner to name certain Chiefs and Headmen who should be authorized on their behalf to conduct such negotiations and sign any treaty to be founded thereon, and to become responsible to Her Majesty for the faithful performance by their respective bands of such obligations as should be assumed by them, the said Indians have thereupon named the following persons for that purpose, that is to say: —

Mis-koo-kenew or Red Eagle (Henry Prince), Ka-ke-ka-penais, or Bird for ever, Na-sha-ke-penais, or Flying down bird, Na-na-wa-nanaw, or Centre of Bird's Tail, Ke-we-tayash, or Flying round, Wa-ko-wush, or Whip-poor-will, Oo-za-we-kwun, or Yellow Quill, — and thereupon in open council the different bands have presented their respective Chiefs to His Excellency the Lieutenant Governor of the Province of Manitoba and of the North-West Territory being present at such council, and to the said Commissioner, as the Chiefs and Headman for the purposes aforesaid of the respective bands of Indians inhabiting the said district hereinafter described; and whereas the said Lieutenant Governor and the said Commissioner then and there received and acknowledged the persons so presented as Chiefs and Headmen for the purpose aforesaid; and whereas the said Commissioner has proceeded to negotiate a treaty with the said Indians, and the same has finally been agreed upon and concluded as follows, that is to say: —

The Chippewa and Swampy Cree Tribes of Indians and all other the Indians inhabiting the district hereinafter described and defined do hereby cede, release, surrender and yield up to Her Majesty the Queen and successors forever all the lands included within the following limits, that is to say: —

Beginning at the international boundary line near its junction with the Lake of the Woods,

at a point due north from the centre of Roseau Lake; thence to run due north to the centre of Roseau Lake; thence northward to the centre of White Mouth Lake, otherwise called White Mud Lake; thence by the middle of the lake and the middle of the river issuing therefrom to the mouth thereof in Winnipeg River; thence by the Winnipeg River to its mouth; thence westwardly, including all the islands near the south end of the lake, across the lake to the mouth of Drunken River; thence westwardly to a point on Lake Manitoba half way between Oak Point and the mouth of Swan Creek; thence across Lake Manitoba in a line due west to its western shore; thence in a straight line to the crossing of the rapids on the Assiniboine; thence due south to the international boundary line; and thence easterwardly by the said line to the place of beginning. To have and to hold the same to Her said Majesty the Queen and Her successors for ever; and Her Majesty the Queen hereby agrees and undertakes to lay aside and reserve for the sole and exclusive use of the Indians the following tracts of land, that is to say: For the use of the Indians belonging to the band of which Henry Prince, otherwise called Mis-koo-ke-new is the Chief, so much of land on both sides of the Red River, beginning at the south line of St. Peter's Parish, as will furnish one hundred and sixty acres for each family of five, or in that proportion for larger or smaller families; and for the use of the Indians of whom Na-sha-ke-penais, Na-na-wa-nanaw, Ke-we-tayash and Wa-ko-wush are the Chiefs, so much land on the Roseau River as will furnish one hundred and sixty acres for each family of five, or in that proportion for larger or smaller families, beginning from the mouth of the river; and for the use of the Indians of which Ka-ke-ka-penais is the Chief, so much land on the Winnipeg River above Fort Alexander as will furnish one hundred and sixty acres for each family of five, or in that proportion for larger or smaller families, beginning at a distance of a mile or thereabout above the Fort; and for the use of the Indians of whom Oo-za-we-kwun is Chief, so much land on the south and east side of the Assiniboine, about twenty miles above the Portage, as will furnish one hundred and sixty acres for each family of five, or in that proportion for larger or smaller families, reserving also a further tract enclosing said reserve to comprise an equivalent to twenty-five square miles of equal breadth, at the date of the execution of this treaty, there are any settlers within the bounds of any lands reserved by any band, Her Majesty reserves the right to deal with such settlers as She shall deem just, so as not to diminish the extent of land allotted to the Indians.

And with a view to show the satisfaction of Her Majesty with the behaviour and good conduct of Her Indians parties to this treaty, She hereby, through Her Commissioner, makes them a present of three dollars for each Indian man, woman and child belonging to the bands here represented.

And Further, Her Majesty agrees to maintain a school on each reserve hereby made whenever the Indians of the reserve should desire it.

Within the boundary of Indian reserves, until otherwise enacted by the proper legislative authority, no intoxicating liquor shall be allowed to be introduced or sold, and all laws now in force or hereafter to be enacted to preserve Her Majesty's Indian subjects inhabiting the reserves or living elsewhere from the evil influence of the use of intoxicating liquors shall be strictly enforced.

Her Majesty's Commissioner shall, as soon as possible after the execution of this treaty, cause to be taken an accurate census of all the Indians inhabiting the district above described, distributing them in families, and shall in every year ensuing the date hereof, at some period during the month of July in each year, to be duly notified to the Indians and at or near their respective reserves, pay to each Indian family of five persons the sum of fifteen dollars Canadian currency, or in like proportion for a larger or smaller family, such payment to be made in such

TREATY NO. 1

articles as the Indians shall require of blankets, clothing, prints (assorted colours), twine or traps, at the current cost price in Montreal, or otherwise, if Her Majesty shall deem the same desirable in the interests of Her Indian people, in cash.

And the undersigned Chiefs do hereby bind and pledge themselves and their people strictly to observe this treaty and to maintain perpetual peace between themselves and Her Majesty's white subjects, and not to interfere with the property or in any way molest the persons of Her Majesty's white or other subjects.

IN WITNESS WHEREOF, Her Majesty's said Commissioner and the said Indian Chiefs have hereunto subscribed and set their hand and seal at Lower Fort Garry, this day and year herein first above named.

Signed, sealed and delivered in the presence of, the same having been first read and explained.

TREATY NO. 2

Between Her Majesty the Queen and the Chippewa and Cree Indians of Manitoba and country adjacent with adhesions

ARTICLES OF TREATY made and concluded this twenty-first day of August, in the year of Our Lord one thousand eight hundred and seventy-one, between Her Most Gracious Majesty the Queen of Great Britain and Ireland, by Her Commissioner Wemyss M. Simpson, Esquire, of the one part, and the Chippewa Tribe of Indians, inhabitants of the country within the limits hereinafter defined and described, by their Chiefs chosen and named as hereinafter mentioned, of the other part.

Whereas, all the Indians inhabiting the said country have, pursuant to an appointment made by the said Commissioner, been convened at a meeting at Manitoba Post to deliberate upon certain matters of interest to Her Most Gracious Majesty, of the one part, and to the said Indians of the other; and whereas the said Indians have been notified and informed by Her Majesty's said Commissioner that it is the desire of Her Majesty to open up to settlement and immigration a tract of country bounded and described as hereinafter mentioned and to obtain the consent thereto of her Indian subjects inhabiting the said tract, and to make a treaty and arrangement with them, so that there may be peace and good will between them and Her Majesty and that they may know and be assured of what allowance they are to count upon and receive from Her Majesty's bounty and benevolence.

And whereas the Indians of the said tract, duly convened in council as aforesaid, and being requested by Her Majesty's said Commissioner to name certain Chiefs and Headmen who should be authorized on their behalf to conduct such negotiations and sign any treaty to be founded thereon, and to become responsible to Her Majesty for the faithful performance by their respective bands of such obligations as shall be assumed by them, the said Indians have thereupon named the following persons for that purpose, that is to say; —

For the Swan Creek and Lake Manitoba Indians, Sou-sonse or Little Long Ears; for the Indians of Fairford and the neighboring localities, Ma-sah-kee-yash or "He who flies to the bottom," and Richard Woodhouse, whose Indian name is Ke-wee-tah-quun-na-yash or "He who flies round the feathers;" for the Indians of Waterhen River and Crane River and the neighboring localities, Francois, or Broken Fingers; and for the Indians of Riding Mountains and Dauphin Lake and the remainder of the territory hereby ceded, Mekis (the Eagle), or Giroux.

And, thereupon, in open council the different bands have presented their respective Chiefs to His Excellency the Lieutenant Governor of Manitoba and of the North-west Territory being present at such council and to the said Commissioner, as the Chiefs and Headmen, for the purposes aforesaid, of the respective bands of Indians inhabiting the said district hereinafter described; and whereas the said Lieutenant Governor and the said Commissioner then and there received and acknowledged the persons so presented as Chiefs and Headmen for the purposes aforesaid of the respective bands of Indians inhabiting the said district hereinafter described; and whereas the said Commissioner has proceeded to negotiate a treaty with the said Indians, and the same has finally been agreed upon and concluded, as follows, that is to say: —The Chippewa Tribe of Indians and all other the Indians inhabiting the district hereinafter described

and defined do hereby cede, release, surrender and yield up to Her Majesty the Queen, and Her successors forever, all the lands included within the following limits, that is to say; —

All that tract of country lying partly to the north and partly to the west of a tract of land ceded to Her Majesty the Queen by the Indians inhabiting the Province of Manitoba, and certain adjacent localities, under the terms of a treaty made at Lower Fort Garry on the third day of August last past, the land now intended to be ceded and surrendered being particularly described as follows, that is to say: Beginning at the mouth of Winnipeg River, on the north line of the lands ceded by said treaty; thence running along the eastern shore of Lake Winnipeg northwardly as far as the mouth of Beren's River; thence across said lake to its western shore, at the north bank of the mouth of the Little Saskatchewan or Dauphin River; thence up said stream and along the northern and western shores thereof, and of St. Martin's Lake, and along the north bank of the stream flowing into St. Martin's Lake from Lake Manitoba by the general course of such stream to such last-mentioned lake; thence by the eastern and northern shores of Lake Manitoba to the mouth of the Waterhen River; thence by the eastern and northern shores of said river up stream to the northernmost extremity of a small lake known as Waterhen Lake; thence in a line due west to and across lake Winnipegosis; thence in a straight line to the most northerly waters forming the source of the Shell River; thence to a point west of the same two miles distant from the river, measuring at right angles thereto; thence by a line parallel with the Shell River to its mouth, and thence crossing the Assiniboine River and running parallel thereto and two miles distant therefrom, and to the westward thereof, to a point opposite Fort Ellice; thence in a south-westwardly course to the north-western point of the Moose Mountains; thence by a line due south to the United States frontier; thence by the frontier eastwardly to the westward line of said tract ceded by treaty as aforesaid; thence bounded thereby by the west, northwest and north lines of said tract, to the place of beginning, at the mouth of Winnipeg River. To have and to hold the same to Her Majesty the Queen and Her successors forever; and Her Majesty the Queen hereby agrees and undertakes to lay aside and reserve for the sole and exclusive use of the Indians inhabiting the said tract the following lots of land, that is to say; —

For the use of the Indians belonging to the band of which Mekis is Chief, so much land between Turtle River and Valley River, on the south side of Lake Dauphin, as will make one hundred and sixty acres for each family of five persons, or in the same proportion for a greater or smaller number of persons. And for the use of the Indians belonging to the band of which François, or Broken Fingers, is Chief, so much land on Crane River, running into Lake Manitoba, as will make one hundred and sixty acres for each family of five persons, or in the same proportion for a greater or smaller number of persons. And for the use of the band of Indians belonging to the bands of which Ma-sah-kee-yash and Richard Woodhouse are Chiefs, so much land on the river between Lake Manitoba and St. Martin's Lake, known as "Fairford River," and including the present Indian mission grounds, as will make one hundred and sixty acres for each family of five persons, or in the same proportion for a greater or smaller number of persons.

And for the use of the Indians of whom Sou-sonce is Chief, so much land on the east side of Lake Manitoba, to be laid off north of the creek near which a fallen elm tree now lies, and about half way between Oak Point and Manitoba Post, so much land as will make one hundred and sixty acres for each family of five persons, or in the same proportion for a greater or smaller number of persons. Saving, nevertheless, the rights of any white or other settler now in occupation of any lands within the lines of any such reserve.

And with a view to show the satisfaction of Her Majesty with the behaviour and good

conduct of Her Indians, parties to this treaty, She hereby, through Her Commissioner, makes them a present of three dollars for each Indian man, woman and child belonging to the band here represented.

And further, Her Majesty agrees to maintain a school in each reserve hereby made, whenever the Indians of the reserve shall desire it.

Her Majesty further agrees with Her said Indians that within the boundary of Indian reserves, until otherwise enacted by the proper legislative authority, no intoxicating liquor shall be allowed to be introduced or sold, and all laws now in force or hereafter to be enacted to preserve Her Indian subjects inhabiting the reserves or living elsewhere within Her North-West Territories, from the evil influence of the use of intoxicating liquors, shall be strictly enforced.

And further, that Her Majesty's Commissioner shall, as soon as possible after the execution of this treaty, cause to be taken an accurate census of all the Indians inhabiting the tract above described, distributing them in families, and shall in every year ensuring the date hereof, at some period during the month of August in each year to be duly notified to the Indians, and at or near their respective reserves, pay to each Indian family of five persons the sum of fifteen dollars, Canadian currency, or in like proportion for a larger or smaller family, such payment to be made in such articles as the Indians shall require of blankets, clothing, prints (assorted colours), twine or traps, at the current cash price in Montreal, or otherwise, if Her Majesty shall deem the same desirable in the interest of Her Indian people, in cash.

And the undersigned Chiefs, on their own behalf and on behalf of all other Indians inhabiting the tract within ceded, do hereby solemnly promise and engage to strictly observe this treaty, and also to conduct and behave themselves as good and loyal subjects of Her Majesty the Queen. They promise and engage that they will in all respects obey and abide by the law; that they will maintain peace and good order between each other, and also between themselves and other tribes of Indians, and between themselves and others of Her Majesty's subjects, whether Indians or whites, now inhabiting or hereafter to inhabit any part of the said ceded tract, and that they will not molest the person or property of any inhabitants of such ceded tract, or the property of Her Majesty the Queen, or interfere with or trouble any person passing or travelling through the said tract, or any part thereof, and that they will aid and assist the officers of Her Majesty in bringing to justice and punishment any Indian offending against the stipulations of this treaty, or infringing the laws in force in the country so ceded.

IN WITNESS WHEREOF, Her Majesty's said Commissioner and the said Indian Chiefs have hereunto subscribed and set their hands at Manitoba Post this day and year herein first above named.

Signed by the Chiefs within named, in presence of the following witnesses, the same having been first read and explained.

TREATY NO. 3

Between Her Majesty the Queen and the Saulteaux Tribe of the Ojibway Indians at the northwest angle on the Lake of the Woods with adhesions

ARTICLES OF A TREATY made and concluded this third day of October, in the year of Our Lord one thousand eight hundred and seventy-three, between Her Most Gracious Majesty the Queen of Great Britain and Ireland, by Her Commissioners, the Honourable Alexander Morris, Lieutenant-Governor of the Province of Manitoba and the North-west Territories; Joseph Alfred Norbert Provencher and Simon James Dawson, of the one part, and the Saulteaux Tribe of the Ojibway Indians, inhabitants of the country within the limits hereinafter defined and described, by their Chiefs chosen and named as hereinafter mentioned, of the other part.

Whereas the Indians inhabiting the said country have, pursuant to an appointment made by the said Commissioners, been convened at a meeting at the north-west angle of the Lake of the Woods to deliberate upon certain matters of interest to Her Most Gracious Majesty, of the one part, and the said Indians of the other.

And whereas the said Indians have been notified and informed by Her Majesty's said Commissioners that it is the desire of Her Majesty to open up for settlement, immigration and such other purpose as to Her Majesty may seem meet, a tract of country bounded and described as hereinafter mentioned, and to obtain the consent thereto of Her Indian subjects inhabiting the said tract, and to make a treaty and arrange with them so that there may be peace and good will between them and Her Majesty and that they may know and be assured of what allowance they are to count upon and receive from Her Majesty's bounty and benevolence.

And whereas the Indians of the said tract, duly convened in council as aforesaid, and being requested by Her Majesty's said Commissioners to name certain Chiefs and Headmen, who should be authorized on their behalf to conduct such negotiations and sign any treaty to be founded thereon, and to become responsible to Her Majesty for their faithful performance by their respective bands of such obligations as shall be assumed by them, the said Indians have thereupon named the following persons for that person, that is to say: —

KEK-TA-PAY-PI-NAIS (Rainy River.)
KITCHI-GAY-KAKE (Rainy River.)
NOTE-NA-QUA-HUNG (North-West Angle.)
NAWE-DO-PE-NESS (Rainy River.)
POW-WA-SANG (North-West Angle.)
CANDA-COM-IGO-WE-NINIE (North-West Angle.)
PAPA-SKO-GIN (Rainy River.)
MAY-NO-WAH-TAW-WAYS-KIONG (North-West Angle.)
KITCHI-NE-KA-LE-HAN (Rainy River.)
SAH-KATCH-EWAY (Lake Seul.)
MUPA-DAY-WAH-SIN (Kettle Falls.)
ME-PIE-SIES (Rainy Lake, Fort Frances.)
OOS-CON-NA-GEITH (Rainy Lake.)
WAH-SHIS-KOUCE (Eagle Lake.)

KAH-KEE-Y-ASH (Flower Lake.)
 GO-BAY (Rainy Lake.)
 KA-MO-TI-ASH (White Fish Lake.)
 NEE-SHO-TAL (Rainy River.)
 KEE-JE-GO-KAY (Rainy River.)
 SHA-SHA-GANCE (Shoal Lake.)
 SHAH-WIN-NA-BI-NAIS (Shoal Lake.)
 AY-ASH-A-WATH (Buffalo Point.)
 PAY-AH-BEE-WASH (White Fish Bay.)
 KAH-TAY-TAY-PA-E-CUTCH (Lake of the Woods.)

And thereupon, in open council, the different bands having presented their Chiefs to the said Commissioners as the Chiefs and Headmen for the purposes aforesaid of the respective bands of Indians inhabiting the said district hereinafter described:

And whereas the said Commissioners then and there received and acknowledged the persons so presented as Chiefs and Headmen for the purpose aforesaid of the respective bands of Indians inhabiting the said district hereinafter described;

And whereas the said Commissioners have proceeded to negotiate a treaty with the said Indians, and the same has been finally agreed upon and concluded, as follows, that is to say: —

The Saulteaux Tribe of the Ojibbeway Indians and all other the Indians inhabiting the district hereinafter described and defined, do hereby cede, release, surrender and yield up to the Government of the Dominion of Canada for Her Majesty the Queen and Her successors forever, all their rights, titles and privileges whatsoever, to the lands included within the following limits, that is to say: —

Commencing at a point on the Pigeon River route where the international boundary line between the Territories of Great Britain and the United States intersects the height of land separating the waters running to Lake Superior from those flowing to Lake Winnipeg; thence northerly, westerly and easterly along the height of land aforesaid, following its sinuosities, whatever their course may be, to the point at which the said height of land meets the summit of the watershed from which the streams flow to Lake Nepigon; thence northerly and westerly, or whatever may be its course, along the ridge separating the waters of the Nepigon and the Winnipeg to the height of land dividing the waters of the Albany and the Winnipeg; thence westerly and north-westerly along the height of land dividing the waters flowing to Hudson's Bay by the Albany or other rivers from those running to English River and the Winnipeg to a point on the said height of land bearing north forty-five degrees east from Fort Alexander, at the mouth of the Winnipeg; thence south forty-five degrees west to Fort Alexander, at the mouth of the Winnipeg; thence southerly along the eastern bank of the Winnipeg to the mouth of White Mouth River; thence southerly by the line described as in that part forming the eastern boundary of the tract surrendered by the Chippewa and Swampy Cree tribes of Indians to Her Majesty on the third of August, one thousand eight hundred and seventy-one, namely, by White Mouth River to White Mouth Lake, and thence on a line having the general bearing of White Mouth River to the forty-ninth parallel of north latitude; thence by the forty-ninth parallel of north latitude to the Lake of the Woods, and from thence by the international boundary line to the place beginning.

The tract comprised within the lines above described, embracing an area of fifty-five

thousand square miles, be the same more or less. To have and to hold the same to Her Majesty the Queen, and Her successors forever.

And Her Majesty the Queen hereby agrees and undertakes to lay aside reserves for farming lands, due respect being had to lands at present cultivated by the said Indians, and also to lay aside and reserve for the benefit of the said Indians, to be administered and dealt with for them by Her Majesty's Government of the Dominion of Canada, in such a manner as shall seem best, other reserves of land in the said territory hereby ceded, which said reserves shall be selected and set aside where it shall be deemed most convenient and advantageous for each band or bands of Indians, by the officers of the said Government appointed for that purpose, and such selection shall be so made after conference with the Indians; provided, however, that such reserves, whether for farming or other purposes, shall in no wise exceed in all one square mile for each family of five, or in that proportion for larger or smaller families; and such selections shall be made if possible during the course of next summer, or as soon thereafter as may be found practicable, it being understood, however, that if at the time of any such selection of any reserve, as aforesaid, there are any settlers within the bounds of the lands reserved by any band, Her Majesty reserves the right to deal with such settlers as She shall deem just so as not to diminish the extent of land allotted to Indians; and provided also that the aforesaid reserves of lands, or any interest or right therein or appurtenant thereto, may be sold, leased or otherwise disposed of by the said Government for the use and benefit of the said Indians, with the consent of the Indians entitled thereto first had and obtained.

And with a view to show the satisfaction of Her Majesty with the behaviour and good conduct of Her Indians She hereby, through Her Commissioners, makes them a present of twelve dollars for each man, woman and child belonging to the bands here represented, in extinguishment of all claims heretofore preferred.

And further, Her Majesty agrees to maintain schools for instruction in such reserves hereby made as to Her Government of Her Dominion of Canada may seem advisable whenever the Indians of the reserve shall desire it.

Her Majesty further agrees with Her said Indians that within the boundary of Indian reserves, until otherwise determined by Her Government of the Dominion of Canada, no intoxicating liquor shall be allowed to be introduced or sold, and all laws now in force or hereafter to be enacted to preserve Her Indian subjects inhabiting the reserves or living elsewhere within Her North-west Territories, from the evil influences of the use of intoxicating liquors, shall be strictly enforced.

Her Majesty further agrees with Her said Indians that they, the said Indians, shall have right to pursue their avocations of hunting and fishing through-out the tract surrendered as hereinbefore described, subject to such regulations as may from time to time be made by Her Government of Her Dominion of Canada, and saving and excepting such tracts as may, from time to time, be required or taken up for settlement, mining, lumbering or other purposes by Her said Government of the Dominion of Canada, or by any of the subjects thereof duly authorized therefor by the said Government.

It is further agreed between Her Majesty and Her said Indians that such sections of the reserves above indicated as may at any time be required for Public Works or buildings of what nature soever may be appropriated for that purpose by Her Majesty's Government of the Dominion of Canada, due compensation being made for the value of any improvements thereon.

And further, that Her Majesty's Commissioners shall, as soon as possible after the exe-

cution of this treaty, cause to be taken an accurate census of all the Indians inhabiting the tract above described, distributing them in families, and shall in every year ensuring the date hereof, at some period in each year to be duly notified to the Indians, and at a place or places to be appointed for that purpose within the territory ceded, pay to each Indian person the sum of five dollars per head yearly.

It is further agreed between Her Majesty and the said Indians that the sum of fifteen hundred dollars per annum shall be yearly and every year expended by Her Majesty in the purchase of ammunition and twine for nets for the use of the said Indians.

It is further agreed between Her Majesty and the said Indians that the following articles shall be supplied to any band of the said Indians who are now actually cultivating the soil or who shall hereafter commence to cultivate the land, that is to say: two hoes for every family actually cultivating, also one spade per family as aforesaid, one plough for every ten families as aforesaid, five harrows for every twenty families as aforesaid, one scythe for every family as aforesaid, and also one axe and one cross-cut saw, one hand-saw, one pit-saw, the necessary files, one grind-stone, one auger for each band, and also for each Chief for the use of his band one chest of ordinary carpenter's tools; also for each band enough of wheat, barley, potatoes and oats to plant the land actually broken up for cultivation by such band; also for each band one yoke of oxen, one full and four cows; all the aforesaid articles to be given once for all for the encouragement of the practice of agriculture among the Indians.

It is further agreed between Her Majesty and the said Indians that each Chief duly recognized as such shall receive an annual salary of twenty-five dollars per annum, and each subordinate officer, not exceeding three for each band, shall receive fifteen dollars per annum; and each such Chief and subordinate officer as aforesaid shall also receive once in every three years a suitable suit of clothing; and each Chief shall receive, in recognition of the closing of the treaty, a suitable flag and medal.

And the undersigned Chiefs, on their own behalf and on behalf of all other Indians inhabiting the tract within ceded, do hereby solemnly promise and engage to strictly observe this treaty, and also to conduct and behave themselves as good and loyal subjects of Her Majesty the Queen. They promise and engage that they will in all respects obey and abide by the law, that they will maintain peace and good order between each other, and also between themselves and other tribes of Indians, and between themselves and others of Her Majesty's subjects, whether Indians or whites, now inhabiting or hereafter to inhabit any part of the said ceded tract, and that they will not molest the person or property of any inhabitants of such ceded tract, or the property of Her Majesty the Queen, or interfere with or trouble any person passing or travelling through the said tract, or any part thereof; and that they will aid and assist the officers of Her Majesty in bringing to justice and punishment and Indian offending against the stipulations of this treaty, or infringing the laws in force in the country so ceded.

IN WITNESS WHEREOF, Her Majesty's said Commissioners and the said Indian Chiefs have hereunto subscribed and set their hands at the North-West Angle of the Lake of the Woods this day and year herein first above named.

Signed by the Chiefs within named, in presence of the following witnesses, the same having been first read and explained by the Honorable James McKay.

TREATY NO. 4

Between Her Majesty the Queen and the Cree and Salteaux Tribes or Indians at Qu'Appelle and Fort Ellice

ARTICLES OF A TREATY made and concluded this fifteenth day of September, in the year of Our Lord one thousand eight hundred and seventy-four, between Her Most Gracious Majesty the Queen of Great Britain and Ireland, by Her Commissioners, the Honourable Alexander Morris, Lieutenant Governor of the Province of Manitoba and the North-West Territories; the Honourable David Laird, Minister of the Interior, and William Joseph Christie, Esquire, of Brockville, Ontario, of the one part; and the Cree, Saulteaux and other Indians, inhabitants of the territory within the limits hereinafter defined and described by their Chiefs and Headmen, chosen and named as hereinafter mentioned, of the other part.

Whereas the Indians inhabiting the said territory have, pursuant to an appointment made by the said Commissioners, been convened at a meeting at the Qu'Appelle Lakes, to deliberate upon certain matters of interest to Her Most Gracious Majesty, of the one part, and the said Indians of the other.

And whereas the said Indians have been notified and informed by Her Majesty's said Commissioners that it is the desire of Her Majesty to open up for settlement, immigration, trade and such other purposes as to Her Majesty may seem meet, a tract of country bounded and described as hereinafter mentioned, and to obtain the consent thereto of Her Indian subjects inhabiting the said tract, and to make a treaty and arrange with them, so that there may be peace and good will between them and Her Majesty and between them and Her Majesty's other subjects, and that her Indian people may know and be assured of what allowance they are to count upon and receive from Her Majesty's bounty and benevolence.

And whereas the Indians of the said tract, duly convened in Council as aforesaid, and being requested by Her Majesty's said Commissioners to name certain Chiefs and Headmen, who should be authorized on their behalf to conduct such negotiations and sign any treaty to be founded thereon, and to become responsible to Her Majesty for their faithful performance by their respective bands of such obligations as shall be assumed by them the said Indians, have thereupon named the following persons for that purpose, that is to say: Ka-ki-shi-way, or "Loud Voice," (Qu'Appelle River); Pis-qua, or "The Plain" (Leech Lake); Ka-wey-ance, or "The Little Boy" (Leech Lake); Ka-kee-na-wup, or "One that sits like an Eagle" (Upper Qu'Appelle Lakes); Kus-kee-tew-mus-coo-mus-qua, or "Little Black Bear" (Cypress Hills); Ha-ne-on-us-ka-tew, or "One that walks on four claws" (Little Touchwood Hills); Cau-ah-ha-cha-pew, or "Making ready the Bow" (South side of the South Branch of the Saskatchewan); Kii-si-caw-ah-chuck, or "Day-Star" (South side of the South Branch of the Saskatchewan); Ka-na-ca-toose, "The Poor Man" (Touchwood Hills and Qu'Appelle Lakes); Ka-kii-wis-tahaw, or "Him that flies around" (towards the Cypress Hills); Cha-ca-chas (Qu'Appelle River); Wah-pii-moose-too-siis, or "The White Calf" (or Pus-coos) (Qu'Appelle River); Gabriel Cote, or Mee-may, or "The Pigeon" (Fort Pelly).

And thereupon in open council the different bands, having presented the men of their choice to the said Commissioners as the Chiefs and Headmen, for the purpose aforesaid, of the respective bands of Indians inhabiting the said district hereinafter described.

And whereas the said Commissioners have proceeded to negotiate a treaty with the said Indians, and the same has been finally agreed upon and concluded as follows, that is to say: —

The Cree and Saulteaux Tribes of Indians, and all other the Indians inhabiting the district hereinafter described and defined, do hereby cede, release, surrender and yield up to the Government of the Dominion of Canada, for Her Majesty the Queen, and Her successors forever, all their rights, titles and privileges whatsoever, to the lands included within the following limits, that is to say: —

Commencing at a point on the United States frontier due south of the northwestern point of the Moose Mountains; thence due north to said point of said mountains; thence in a northeasterly course to a point two miles due west of Fort Ellice; thence in a line parallel with and two miles westward from the Assiniboine River to the mouth of the Shell River; thence parallel to the said river and two miles distant therefrom to its source; thence in a straight line to a point on the western shore of Lake Winnipegosis, due west from the most northern extremity of Waterhen Lake; thence east to the centre of Lake Winnipegosis; thence northwardly, through the middle of the said lake (including Birch Island), to the mouth of Red Deer River; thence westwardly and south-westwardly along and including the said Red Deer River and its lakes, Red Deer and Etoimaini, to the source of its western branch; thence in a straight line to the source of the northern branch of the Qu'Appelle; thence along and including said stream to the forks near Long Lake; thence along and including the valley of the west branch of the Qu'Appelle to the South Saskatchewan; thence along and including said river to the mouth of Maple Creek; thence southwardly along said creek to a point opposite the western extremity of the Cypress Hills; thence due south to the international boundary; thence east along the said boundary to the place of commencement. Also all their rights, titles and privileges whatsoever to all other lands wheresoever situated within Her Majesty's North-West Territories, or any of them. To have and to hold the same to Her Majesty the Queen and Her successors for ever.

And Her Majesty the Queen hereby agrees, through the said Commissioners, to assign reserves for said Indians, such reserves to be selected by officers of Her Majesty's Government of the Dominion of Canada appointed for that purpose, after conference with each band of the Indians, and to be of sufficient area to allow one square mile for each family of five, or in that proportion for larger or smaller families; provided, however, that it be understood that, if at the time of the selection of any reserves, as aforesaid, there are any settlers within the bounds of the lands reserved for any band, Her Majesty retains the right to deal with such settlers as She shall deem just, so as not to diminish the extent of land allotted to the Indians; and provided, further, that the aforesaid reserves of land, or any part thereof, or any interest or right therein, or appurtenant thereto, may be sold, leased or otherwise disposed of by the said Government for the use and benefit of the said Indians, with the consent of the Indians entitled thereto first had and obtained, but in no wise shall the said Indians, or any of them, be entitled to sell or otherwise alienate any of the lands allotted to them as reserves.

In view of the satisfaction with which the Queen views the ready response which Her Majesty's Indian subjects have accorded to the invitation of Her said Commissioners to meet them on this occasion, and also in token of their general good conduct and behaviour, She hereby, through Her Commissioners, makes the Indians of the bands here represented a present, for each Chief of twenty-five dollars in cash, a coat and a Queen's silver medal; for each Headman, not exceeding four in each band, fifteen dollars in cash and a coat; and for every other man, woman and child twelve dollars in cash; and for those here assembled some powder, shot, blankets, calicoes, strouds and other articles.

As soon as possible after the execution of this treaty Her Majesty shall cause a census to be taken of all the Indians inhabiting the tract hereinbefore described, and shall, next year, and annually afterwards for every, cause to be paid in cash at some suitable season to be duly notified to the Indians, and at a place or places to be appointed for that purpose, within the territory ceded, each Chief twenty-five dollars; each Headman, not exceeding four to a band, fifteen dollars; and to every other Indian man, woman and child, five dollars per head; such payment to be made to the heads of families for those belonging thereto, unless for some special reason it be found objectionable.

Her Majesty also agrees that each Chief and each Headman, not to exceed four in each band, once in every three years during the term of their offices shall receive a suitable suit of clothing, and that yearly and every year She will cause to be distributed among the different bands included in the limits of this treaty powder, shot, ball and twine, in all to the value of seven hundred and fifty dollars; and each Chief shall receive hereafter, in recognition of the closing of the treaty, a suitable flag.

It is further agreed between Her Majesty and the said Indians that the following articles shall be supplied to any band thereof who are now actually cultivating the soil, or who shall hereafter settle on their reserves and commence to break up the land, that is to say: two hoes, one spade, one scythe and one axe for every family so actually cultivating, and enough seed wheat, barley, oats and potatoes to plant such land as they have broken up; also one plough and two harrows for every ten families so cultivating as aforesaid, and also to each Chief for the use of his band as aforesaid, one yoke of oxen, one bull, four cows, a chest of ordinary carpenter's tools, five hand saws, five augers, one cross-cut saw, one pit-saw, the necessary files and one grindstone, all the aforesaid articles to be given, once for all, for the encouragement of the practice of agriculture among the Indians.

Further, Her Majesty agrees to maintain a school in the reserve allotted to each band as soon as they settle on said reserve and are prepared for a teacher.

Further, Her Majesty agrees that within the boundary of the Indian reserves, until otherwise determined by the Government of the Dominion of Canada, no intoxicating liquor shall be allowed to be introduced or sold, and all laws now in force, or hereafter to be enacted, to preserve Her Indian subjects, inhabiting the reserves, or living elsewhere within the North-West Territories, from the evil effects of intoxicating liquor, shall be strictly enforced.

And further, Her Majesty agrees that Her said Indians shall have right to pursue their avocations of hunting, trapping and fishing throughout the tract surrendered, subject to such regulations as may from time to time be made by the Government of the country, acting under the authority of Her Majesty, and saving and excepting such tracts as may be required or taken up from time to time for settlement, mining or other purposes, under grant or other right given by Her Majesty's said Government.

It is further agreed between Her Majesty and Her said Indian subjects that such sections of the reserves above indicated as may at any time be required for public works or building of whatsoever nature may be appropriated for that purpose by Her Majesty's Government of the Dominion of Canada, due compensation being made to the Indians for the value of any improvements thereon, and an equivalent in land or money for the area of the reserve so appropriated.

And the undersigned Chiefs and Headmen, on their own behalf and on behalf of all other Indians inhabiting the tract within ceded, do hereby solemnly promise and engage to strictly

TREATY NO. 4

observe this treaty, and also to conduct and behave themselves as good and loyal subjects of Her Majesty the Queen. They promise and engage that they will, in all respects, obey and abide by the law, that they will maintain peace and good order between each other, and between themselves and other tribes of Indians and between themselves and others of Her Majesty's subjects, whether Indians, Half-breeds, or whites, now inhabiting or hereafter to inhabit any part of the said ceded tract; and that they will not molest the person or property of any inhabitant of such ceded tract, or the property of Her Majesty the Queen, or interfere with or trouble any person passing or travelling through the said tract, or any part thereof, and that they will assist the officers of Her Majesty in bringing to justice and punishment and Indian offending against the stipulations of this treaty, or infringing the laws in force in the country so ceded.

IN WITNESS WHEREOF Her Majesty's said Commissioners, and the said Indian Chiefs and Headmen, have hereunto subscribed and set their hands, at Qu' Appelle, this day and year herein first above written.

Signed by the Chiefs and Headmen within named in presence of the following witnesses, the same having been first read and explained by Charles Pratt.

TREATY NO. 5

Between Her Majesty the Queen and the Saulteaux and Swampy Cree Tribes of Indians at Beren's River and Norway House with adhesions

ARTICLES OF A TREATY made and concluded at Beren's River the 20th day of September, and at Norway House the 24th day of September, in the year of Our Lord one thousand eight hundred and seventy-five, between "Her Most Gracious Majesty the Queen" of Great Britain and Ireland, by Her Commissioners the Honourable Alexander Mossirs, Lieutenant-Governor of the Province of Manitoba and the North-west Territories, and the Honourable James McKay, of the one part, and the Saulteaux and Swampy Cree tribes of Indians, inhabitants of the country within the limits hereinafter defined and described, by their Chiefs, chosen and named as hereinafter mentioned, of the other part.

WHEREAS, the Indians inhabiting the said country have, pursuant to an appointment made by the said Commissioners, been convened at meetings at Beren's River and Norway House to deliberate upon certain matters of interest to Her Most Gracious Majesty, of the one part, and the said Indians of the other.

AND WHEREAS the said Indians have been notified and informed by Her Majesty's said Commissioners that it is the desire of Her Majesty to open up for settlement, immigration and such other purposes as to Her Majesty may seem meet, a tract of country bounded and described as hereinafter mentioned, and to obtain the consent thereto of Her Indian subjects inhabiting the said tract, and to make a treaty and arrange with them, so that there may be peace and good will between them and Her Majesty, and that they may know and be assured of what allowance they are to count upon and receive from Her Majesty's bounty and benevolence.

AND WHEREAS the Indians of said tract, duly convened in council as aforesaid, and being requested by Her Majesty's said Commissioners to name certain Chiefs and Headmen who should be authorized on their behalf to conduct such negotiations and sign any treaty to be founded thereon, and to become responsible to Her Majesty for the faithful performance by their respective bands of such obligations as shall be assumed by them the said Indians, have thereupon named the following persons for that purpose, that is to say:

For the Indians within the Beren's River region and their several bands: Nah-wee-kee-sick-quah-yash, Chief; Kah-nah-wah-kee-wee-nin and Nah-kee-quan-nay-yash, Councillors, and Pee-wah-roo-wee-nin, of Poplar River, Councillor; for the Indians within the Norway House region and their several bands: David Rundle, Chief, James Cochrane, Harry Constatag and Charles Pisequinip, Councillors; and Ta-pas-ta-num, or Donald William Sinclair Ross, Chief, James Garrioch and Proud McKay, Councillors.

AND THEREUPON, in open council, the different bands having presented their Chiefs to the said Commissioners as the Chiefs and Headmen for the purposes aforesaid of the respective Bands of Indians inhabiting the said district hereinafter described.

AND WHEREAS the said Commissioners then and there received and acknowledged the persons so presented as Chiefs and Headmen, for the purposes aforesaid, of the respective Bands of Indians inhabiting the said district hereinafter described.

TREATY NO. 5

AND WHEREAS the said Commissioners have proceeded to negotiate a treaty with the said Indians, and the same has been finally agreed upon and concluded as follows, that is to say:

The Saulteaux and Swampy Cree Tribes of Indians and all other the Indians inhabiting the district hereinafter described and defined, do hereby cede, release, surrender and yield up to the Government of the Dominion of Canada, for Her Majesty the Queen and Her successors for ever, all their rights, titles and privileges whatsoever to the lands included within the following limits, that is to say:

Commencing at the north corner or junction of Treaties Nos. 1 and 3; thence easterly along the boundary of Treaty No. 3 to the "Height of Land," at the northeast corner of the said treaty limits, a point dividing the waters of the Albany and Winnipeg Rivers; thence due north along the said "Height of Land" to a point intersected by the 53° of north latitude; and thence north-westerly to "Favourable Lake"; thence following the east shore of said lake to its northern limit; thence north-westerly to the north end of Lake Winnipegosis; thence westerly to the "Height of Land" called "Robinsons's Portage"; thence northwesterly to the east end of "Cross Lake"; thence north-westerly crossing "Foxes Lake"; thence north-westerly to the north end of "Split Lake"; thence southwesterly to "Pipestone Lake," on "Burntwood River"; thence south-westerly to the western point of "John Scott's Lake"; thence south-westerly to the north shore of "Beaver Lake"; thence south-westerly to the west end of "Cumberland Lake"; thence due south to the "Saskatchewan River"; thence due south to the north-west corner of the northern limits of Treaty No. 4, including all territory within the said limits, and all islands on all lakes within the said limits, as above described; and it being also understood that in all cases where lakes form the treaty limits, ten miles from the shore of the lake should be included in the treaty.

And also all their rights, titles and privileges whatsoever to all other lands wherever situated in the North-west Territories or in any other Province or portion of Her Majesty's dominions situated and being within the Dominion of Canada;

The tract comprised within the lines above described, embracing an area of one hundred thousand square miles, be the same more or less;

To have and to hold the same to Her Majesty the Queen, and Her successors forever;

And Her Majesty the Queen hereby agrees and undertakes to lay aside reserves for farming lands, due respect being had to lands at present cultivated by the said Indians, and other reserves for the benefit of the said Indians, to be administered and dealt with for them by Her Majesty's Government of the Dominion of Canada, provided all such reserves shall not exceed in all one hundred and sixty acres for each family of five, or in that proportion for larger or smaller families — in manner following, that is to say: For the Band of "Saulteaux, in the Beren's River" region, now settled or who may within two years settle therein, a reserve commencing at the outlet of Beren's River into Lake Winnipeg, and extending along the shores of said lake, and up said river and into the interior behind said lake and river, so as to comprehend one hundred and sixty acres for each family of five, a reasonable addition being, however, to be made by Her Majesty to the extent of the said reserve for the inclusion in the tract so reserved of swamp, but reserving the free navigation of the said lake and river, and free access to the shores and waters thereof, for Her Majesty and all Her subjects, and expecting thereout such land as may have been granted to or stipulated to be held by the "Hudson Bay Company," and also such land as Her Majesty or Her successors, may in Her good pleasure, see fit to grant to the Mission established at or near Beren's River by the Methodist Church of Canada, for a

church, school-house, parsonage, burial ground and farm, or other mission purposes; and to the Indians residing at Poplar River, falling into Lake Winnipeg north of Beren's River, a reserve not exceeding one hundred and sixty acres to each family of five, respecting, as much as possible, their present improvements:

And inasmuch as a number of the Indians now residing in and about Norway House of the band of whom David Rundle is Chief are desirous of removing to a locality where they can cultivate the soil, Her Majesty the Queen hereby agrees to lay aside a reserve on the west side of Lake Winnipeg, in the vicinity of Fisher River, so as to give one hundred acres to each family of five, or in that proportion for larger or smaller families, who shall remove to the said locality within "three years," it being estimated that ninety families or thereabout will remove within the said period, and that a reserve will be laid aside sufficient for that or the actual number; and it is further agreed that those of the band who remain in the vicinity of "Norway House" shall retain for their own use their present gardens, buildings and improvements, until the same be departed with by the Queen's Government, with their consent first had and obtained, for their individual benefit, if any value can be realized therefor:

And with regard to the Band of Wood Indians, of whom Ta-pas-ta-num, or Donald William Sinclair Ross, is Chief, a reserve at Otter Island, on the west side of Cross Lake, of one hundred and sixty acres for each family of five or in that proportion for smaller families — reserving, however, to Her Majesty, Her successors and Her subjects the free navigation of all lakes and rivers and free access to the shores thereof; Provided, however, that Her Majesty reserves the right to deal with any settlers within the bounds of any lands reserved for any band as She shall deem fit, and also that the aforesaid reserves of land or any interest therein may be sold or otherwise disposed of by Her Majesty's Government for the use and benefit of the said Indians entitled thereto, with their consent first had and obtained.

And with a view to show the satisfaction of Her Majesty with the behaviour and good conduct of Her Indians, She hereby, through Her Commissioners, makes them a present of five dollars for each man, woman and child belonging to the bands here represented, in extinguishment of all claims heretofore preferred.

And further, Her Majesty agrees to maintain schools for instruction in such reserves hereby made as to Her Government of the Dominion of Canada may seem advisable, whenever the Indians of the reserve shall desire it.

Her Majesty further agrees with Her said Indians, that within the boundary of Indian reserves, until otherwise determined by Her Government of the Dominion of Canada, no intoxicating liquor shall be allowed to be introduced or sold, and all laws now in force, or hereafter to be enacted, to preserve Her Indian subjects inhabiting the reserves, or living elsewhere within Her North-west Territories, from the evil influence of the use of intoxicating liquors, shall be strictly enforced.

Her Majesty further agrees with Her said Indians, that they, the said Indians, shall have right to pursue their avocations of hunting and fishing throughout the tract surrendered as hereinbefore described, subject to such regulations as may from time to time be made by Her Government of Her Dominion of Canada, and saving and excepting such tracts as may from time to time be required or taken up for settlement, mining, lumbering or other purposes, by Her said Government of the Dominion of Canada, or by any of the subjects thereof duly authorized therefor by the said Government.

It is further agreed between Her Majesty and Her said Indians that such sections of the

reserves above indicated as may at any time be required for public works or buildings, of what nature soever, may be appropriated for that purpose by Her Majesty's Government of Dominion of Canada, due compensation being made for the value of any improvements thereon.

And further, that Her Majesty's Commissioners shall, as soon as possible after the execution of this treaty, cause to be taken an accurate census of all the Indians inhabiting the tract above described, distributing them in families, and shall in every year ensuing the date hereof, at some period in each year to be duly notified to the Indians, and at a place or places to be appointed for that purpose within the territory ceded, pay to each Indian person the sum of five dollars per head yearly.

It is further agreed between Her Majesty and the said Indians that the sum of five hundred dollars per annum shall be yearly and every year expended by Her Majesty in the purchase of ammunition, and twine for nets, for the use of the said Indians, in manner following, that is to say: in the reasonable discretion as regards the distribution thereof among the Indians inhabiting the several reserves or otherwise included therein of Her Majesty's Indian Agent having the supervision of this treaty.

It is further agreed between Her Majesty and the said Indians that the following articles shall be supplied to any band of the said Indians who are now cultivating the soil, or who shall hereafter commence to cultivate the land, that is to say: Two hoes for every family actually cultivating; also one spade per family as aforesaid; one plough for every ten families as aforesaid; five harrows for every twenty families as aforesaid; one scythe for every family as aforesaid, and also one axe; — and also one cross-cut saw, one hand-saw, one pit-saw, the necessary files, one grindstone, and one auger for each band; and also for each Chief, for the use of his band, one chest of ordinary carpenter's tools; also for each band enough of wheat, barley, potatoes and oats to plant the land actually broken up for cultivation by such band; also for each band one yoke of oxen, one bull and four cows — all the aforesaid articles to be given once for all for the encouragement of the practice of agriculture among the Indians.

It is further agreed between Her Majesty and the said Indians that each Chief duly recognized as such shall receive an annual salary of twenty-five dollars per annum, and each subordinate officer, not exceeding three for each band, shall receive fifteen dollars per annum; and each such Chief and subordinate officer as aforesaid shall also receive, once every three years, a suitable suit of clothing; and each Chief shall receive, in recognition of the closing of the treaty, a suitable flag and medal.

And the undersigned Chiefs, on their own behalf and on behalf of all other Indians inhabiting the tract within ceded, do hereby solemnly promise and engage to strictly observe this treaty, and also to conduct and behave themselves as good and loyal subjects of Her Majesty the Queen. They promise and engage that they will, in all respects, obey and abide by the law, and they will maintain peace and good order between each other, and also between themselves and other Tribes of Indians, and between themselves and others of Her Majesty's subjects, whether Indians or whites, now inhabiting or hereafter to inhabit any part of the said ceded tracts, and that they will not molest the person or property of any inhabitant of such ceded tracts, or the property of Her Majesty the Queen, or interfere with or trouble any person passing or travelling through the said tracts, or any part thereof; and that they will aid and assist the officers of Her Majesty in bringing to justice and punishment any Indian offending against the stipulations of this treaty, or infringing the laws in force in the country so ceded.

IN WITNESS WHEREOF, Her Majesty's said Commissioners and the said Indian Chiefs

TREATY NO. 5

have hereunto subscribed and set their hands at “Beren’s River” this twentieth day of September, A.D. 1875, and at Norway House on the twenty-fourth day of the month and year herein first above named.

Signed by the Chiefs within named in presence of the following witnesses, the same having been first read and explained by the Honourable James McKay.

TREATY NO. 6

Between Her Majesty the Queen and the Plains and Wood Cree Indians and other tribes of Indians at Fort Carlton, Fort Pitt and Battle River

ARTICLES OF A TREATY made and concluded near Carlton on the 23rd day of August, and on the 28th day of said month, respectively, and near Fort Pitt on the 9th day of September, in the year of Our Lord one thousand eight hundred and seventy-six, between Her Most Gracious Majesty the Queen of Great Britain and Ireland, by Her Commissioners, the Honourable Alexander Morris, Lieutenant-Governor of the Province of Manitoba and the North-West Territories, and the Honourable James McKay, and the Honourable William Joseph Christie, of the one part, and the Plain and Wood Cree Tribes of Indians, and the other Tribes of Indians, inhabitants of the country within the limits hereinafter defined and described, by their Chiefs, chosen and named as hereinafter mentioned, of the other part.

Whereas the Indians inhabiting the said country have, pursuant to an appointment made by the said commissioners, been convened at meetings at Fort Carlton, Fort Pitt and Battle River, to deliberate upon certain matters of interest to Her Most Gracious Majesty, of the one part, and the said Indians of the other;

And whereas the said Indians have been notified and informed by Her Majesty's said Commissioners that it is the desire of Her Majesty to open up for settlement, immigration and such other purposes as to Her Majesty may seem meet, a tract of country, bounded and described as hereinafter mentioned, and to obtain the consent thereto of Her Indian subjects inhabiting the said tract, and to make a treaty and arrange with them, so that there may be peace and good will between them and Her Majesty, and that they may know and be assured of what allowance they are to count upon and receive from Her Majesty's bounty and benevolence;

And whereas the Indians of the said tract, duly convened in council as aforesaid, and being requested by Her Majesty's Commissioners to name certain Chiefs and head men, who should be authorized, on their behalf, to conduct such negotiations and sign any treaty to be founded thereon, and to become responsible to Her Majesty for their faithful performance by their respective bands of such obligations as shall be assumed by them, the said Indians have thereupon named for that purpose, that is to say, representing: — the Indians who make the treaty at Carlton, the several Chiefs and Councillors who have subscribed hereto, and representing the Indians who make the treaty at Fort Pitt, the several Chiefs and Councillors who have subscribed hereto;

And thereupon, in open council, the different bands having presented their Chiefs to the said Commissioners as the Chiefs and head men, for the purposes aforesaid, of the respective bands of Indians inhabiting the said district hereinafter described;

And whereas, the said Commissioners then and there received and acknowledged the persons so represented, as Chiefs and head men, for the purposes aforesaid, of the respective bands of Indians inhabiting the said district hereinafter described;

And whereas the said Commissioners have proceeded to negotiate a treaty with the said Indians, and the same has been finally agreed upon and concluded as follows, that is to say:

The Plain and Wood Cree Tribes of Indians, and all other the Indians inhabiting the district hereinafter described and defined, do hereby cede, release, surrender and yield up to the Government of the Dominion of Canada for Her Majesty the Queen and Her successors forever, all their rights, titles and privileges whatsoever, to the lands included within the following limits, that is to say:

Commencing at the mouth of the river emptying into the north-west angle of Cumberland Lake, thence westerly up the said river to its source, thence on a straight line in a westerly direction to the head of Green Lake, thence northerly to the elbow in the Beaver River, thence down the said river northerly to a point twenty miles from the said elbow; thence in westerly direction, keeping on a line generally parallel with the said Beaver River (above the elbow), and about twenty miles distance therefrom, to the source of the said river; thence northerly to the north-easterly point of the south shore of Red Deer Lake, continuing westerly along the said shore to the western limit thereof, and thence due west to the Athabaska River, thence up the said river, against the stream, to the Jasper House, in the Rocky Mountains; thence on a course south-easterly, following the easterly range of the Mountains, to the source of the main branch of the Red Deer River; thence down the said river, with the stream, to the junction therewith of the outlet of the river, being the outlet of the Buffalo Lake; thence due east twenty miles; thence on a straight line south-eastwardly to the mouth of the said Red Deer River on the south branch of the Saskatchewan River; thence eastwardly and northwardly, following on the boundaries of the tracts conceded by the several Treaties numbered Four and Five, to the place of beginning;

And also all their rights, titles and privileges whatsoever, to all other lands, wherever situated, in the North-West Territories, or in any other Province or portion of Her Majesty's Dominions, situated and being within the Dominion of Canada.

The tract comprised within the lines above described, embracing an area of 121,000 square miles, be the same more or less;

To have and to hold the same to Her Majesty the Queen and Her successors forever;

And Her Majesty the Queen hereby agrees and undertakes to lay aside reserves for farming lands, due respect being had to lands at present cultivated by the said Indians, and other reserves for the benefit of the said Indians, to be administered and dealt with for them by Her Majesty's Government of the Dominion of Canada, provided all such reserves shall not exceed in all one square mile for each family of five, or in that proportion for larger or smaller families, in manner following, that is to say:—

That the Chief Superintendent of Indian Affairs shall depute and send a suitable person to determine and set apart the reserves for each band, after consulting with the Indians thereof as to the locality which may be found to be most suitable for them;

Provided, however, that Her Majesty reserves the right to deal with any settlers within the bounds of any lands reserved for any band as She shall deem fit, and also that the aforesaid reserves of land, or any interest therein, may be sold or otherwise disposed of by Her Majesty's Government for the use and benefit of the said Indians entitled thereto, with their consent first had and obtained; and with a view to show the satisfaction of Her Majesty with the behaviour and good conduct of Her Indians, She hereby, through Her Commissioners, makes them a present of twelve dollars for each man, woman and child belonging to the bands here represented, in extinguishment of all claims heretofore preferred;

And further, Her Majesty agrees to maintain schools for instruction in such reserves hereby made, as to Her Government of the Dominion of Canada may seem advisable, whenever the Indians of the reserve shall desire it;

Her Majesty further agrees with Her said Indians that within the boundary of Indian reserves, until otherwise determined by Her Government of the Dominion of Canada, no intoxicating liquor shall be allowed to be introduced or sold, and all laws now in force or hereafter to be enacted to preserve Her Indian subjects inhabiting the reserves or living elsewhere within Her North-West Territories from the evil influence of the use of intoxicating liquors, shall be strictly enforced;

Her Majesty further agrees with Her said Indians that they, the said Indians, shall have

right to pursue their avocations of hunting and fishing throughout the tract surrendered as hereinbefore described, subject to such regulations as may from time to time be made by Her Government of Her Dominion of Canada, and saving and excepting such tracts as may from time to time be required or taken up for settlement, mining, lumbering or other purposes by Her said Government of the Dominion of Canada, or by any of the subjects thereof, duly authorized therefor, by the said Government;

It is further agreed between Her Majesty and Her said Indians, that such sections of the reserves above indicated as may at any time be required for public works or buildings of what nature soever, may be appropriated for that purpose by Her Majesty's Government of the Dominion of Canada, due compensation being made for the value of any improvements thereon;

And further, that Her Majesty's Commissioners shall, as soon as possible after the execution of this treaty, cause to be taken, an accurate census of all the Indians inhabiting the tract above described, distributing them in families, and shall in every year ensuing the date hereof, at some period in each year, to be duly notified to the Indians, and at a place or places to be appointed for that purpose within the territory ceded, pay to each Indian person the sum of \$5 per head yearly;

It is further agreed between Her Majesty and the said Indians, that the sum of \$1500.00 per annum, shall be yearly and every year expended by Her Majesty in the purchase of ammunition and twine for nets for the use of the said Indians, in manner following, that is to say: — In the reasonable discretion as regards the distribution thereof, among the Indians inhabiting the several reserves, or otherwise included herein, of Her Majesty's Indian Agent having the supervision of this treaty;

It is further agreed between Her Majesty and the said Indians that the following articles shall be supplied to any band of the said Indians who are now cultivating the soil, or who shall hereafter commence to cultivate the land, that is to say: — Four hoes for every family actually cultivating, also two spades per family as aforesaid; one plough for every three families as aforesaid, one harrow for every three families as aforesaid; two scythes, and one whetstone and two hay forks and two reaping-hooks for every family as aforesaid; and also two axes, and also one cross-cut saw, and also one hand-saw, one pit-saw, the necessary files, one grindstone and one auger for each band; and also for each Chief for the use of his band, one chest of ordinary carpenter's tools; also for each band, enough of wheat, barley, potatoes and oats to plant the land actually broken up for cultivation by such band; also for each band, four oxen, one bull and six cows, also one boar and two sows, and one handmill when any band shall raise sufficient grain therefor; all the aforesaid articles to be given *once for all* for the encouragement of the practice of agriculture among the Indians;

It is further agreed between Her Majesty and the said Indians, that each Chief, duly recognized as such, shall receive an annual salary of \$25 per annum; and each subordinate officer, not exceeding four for each band, shall receive \$15 per annum; and each such Chief and subordinate officer as aforesaid, shall also receive, once every three years, a suitable suit of clothing, and each Chief shall receive, in recognition of the closing of the treaty, a suitable flag and medal, and also, as soon as convenient, one horse, harness and waggon;

That in the event hereafter of the Indians comprised within this treaty being overtaken by any pestilence, or by a general famine, the Queen, on being satisfied and certified thereof by Her Indian Agent or Agents, will grant to the Indians assistance of such character and to such extent as Her Chief Superintendent of Indian Affairs shall deem necessary and sufficient to relieve the Indians from the calamity that shall have befallen them;

That during the next three years, after two or more of the reserves hereby agreed to be set apart to the Indians, shall have been agreed upon and surveyed, there shall be granted to the Indians included under the Chiefs adhering to the treaty at Carlton, each spring, the sum of

\$1000 to be expended for them by Her Majesty's Indian Agents, in the purchase of provisions for the use of such of the band as are actually settled on the reserves and are engaged in cultivating the soil, to assist them in such cultivation;

That a medicine chest shall be kept at the house of each Indian Agent for the use and benefit of the Indians, at the direction of such Agent;

That with regard to the Indians included under the Chiefs adhering to the treaty at Fort Pitt, and to those under Chiefs within the treaty limits who may hereafter give their adhesion hereto (exclusively, however, of the Indians of the Carlton region) there shall, during three years, after two or more reserves shall have been agreed upon and surveyed, be distributed each spring among the bands cultivating the soil on such reserves, by Her Majesty's Chief Indian Agent for this treaty in his discretion, a sum not exceeding \$1000, in the purchase of provisions for the use of such members of the band as are actually settled on the reserves and engaged in the cultivation of the soil, to assist and encourage them in such cultivation;

That in lieu of waggons, if they desire it, and declare their option to that effect, there shall be given to each of the Chiefs adhering hereto, at Fort Pitt or elsewhere hereafter (exclusively of those in the Carlton district) in recognition of this treaty, as soon as the same can be conveniently transported, two carts, with iron bushings and tires;

And the undersigned Chiefs on their own behalf, and on behalf of all other Indians inhabiting the tract within ceded, do hereby solemnly promise and engage to strictly observe this treaty, and also to conduct and behave themselves as good and loyal subjects of Her Majesty the Queen;

They promise and engage that they will in all respects obey and abide by the law, and they will maintain peace and good order between each other, and also between themselves and other tribes of Indians, and between themselves and others of Her Majesty's subjects, whether Indians or whites, now inhabiting or hereafter to inhabit any part of the said ceded tracts, and that they will not molest the person or property of any inhabitant of such ceded tracts, or the property of Her Majesty the Queen, or interfere with or trouble any person passing or travelling through the said tracts or any part thereof; and that they will aid and assist the officers of Her Majesty in bringing to justice and punishment any Indian offending against the stipulations of this treaty, or infringing the laws in force in the country so ceded.

IN WITNESS WHEREOF, Her Majesty's said Commissioners and the said Indian Chiefs have hereunto subscribed and set their hands, at or near Fort Carlton, on the day and year aforesaid, and near Fort Pitt on the day above aforesaid.

Signed by the Chiefs within named in the presence of the following witnesses, the same having been first read and explained by Peter Erasmus, Peter Ballendine and the Rev. John McKay.

TREATY NO. 7

Between Her Majesty the Queen and the Blackfeet and other Indian tribes, at the Blackfoot Crossing of Bow River and Fort MacLeod

ARTICLES OF A TREATY

Made and concluded this twenty-second day of September, in the year of Our Lord, one thousand eight hundred and seventy-seven, between Her Most Gracious Majesty the Queen of Great Britain and Ireland, by Her Commissioners, the Honorable David Laird, Lieutenant-Governor and Indian Superintendent of the North-West Territories, and James Farquharson MacLeod, C.M.G., Commissioner of the North-West Mounted Police, of the one part, and the Blackfeet, Blood, Piegan, Sarcee, Stony and other Indians, inhabitants of the Territory north of the United States Boundary Line, east of the central range of the Rocky Mountains, and south and west of Treaties numbers six and four, by their Head Chiefs and Minor Chiefs or Councillors, chosen as hereinafter mentioned, of the other part.

WHEREAS the Indians inhabiting the said Territory, have, pursuant to an appointment made by the said Commissioners, been convened at a meeting at the "Blackfoot Crossing" of the Bow River, to deliverate upon certain matters of interest to Her Most Gracious Majesty, of the one part, and the said Indians of the other;

And whereas the said Indians have been informed by Her Majesty's Commissioners that it is the desire of Her Majesty to open up for settlement, and such other purposes as to Her Majesty may seem meet, a tract of country, bounded and described as hereinafter mentioned, and to obtain the consent thereto of Her Indians subjects inhabiting the said tract, and to make a Treaty, and arrange with them, so that there may be peace and good will between them and Her Majesty, and between them and Her Majesty's other subjects; and that Her Indian people may know and feel assured of what allowance they are to count upon and receive from Her Majesty's bounty and benevolence;

And whereas the Indians of the said tract, duly convened in Council, and being requested by Her Majesty's Commissioners to present their Head Chiefs and Minor Chiefs, or Councillors, who shall be authorized, on their behalf, to conduct such negotiations and sign any Treaty to be founded thereon, and to become responsible to Her Majesty for the faithful performance, by their respective Bands of such obligations as should be assumed by them, the said Blackfeet, Blood, Piegan and Sarcee Indians have therefore acknowledged for that purpose, the several Head and Minor Chiefs, and the said Stony Indians, the Chiefs and Councillors who have subscribed hereto, that thereupon in open Council the said Commissioners received and acknowledged the Head and Minor Chiefs and the Chiefs and Councillors presented for the purpose aforesaid;

And whereas the said Commissioners have proceeded to negotiate a Treaty with the said Indians; and the same has been finally agreed upon and concluded as follows, that is to say: the Blackfeet, Blood, Piegan, Sarcee, Stony and other Indians inhabiting the district hereinafter more fully described and defined, do hereby cede, release, surrender, and yield up to the Government of Canada for Her Majesty the Queen and her successors for every, all their rights,

titles, and privileges whatsoever to the lands included within the following limits, that is to say:

Commencing at a point on the International Boundary due south of the western extremity of the Cypress Hills, thence west along the said boundary to the central range of the Rocky Mountains, or to the boundary of the Province of British Columbia, thence north-westerly along the said boundary to a point due west of the source of the main branch of the Red Deer River, thence south-westerly and southerly following on the boundaries of the Tracts ceded by the Treaties numbered six and four to the place of commencement;

And also all their rights, titles and privileges whatsoever, to all other lands wherever situated in the North-West Territories, or in any other portion of the Dominion of Canada;

To have and to hold the same to Her Majesty the Queen and her successors for ever: —

And Her Majesty the Queen hereby agrees with her said Indians, that they shall have right to pursue their vocations of hunting throughout the Tract surrendered as heretofore described, subject to such regulations as may, from time to time, be made by the Government of the country, acting under the authority of Her Majesty and saving and excepting such Tracts as may be required or taken up from time to time for settlement, mining, trading or other purposes by Her Government of Canada; or by any of Her Majesty's subjects duly authorized therefor by the said Government.

It is also agreed between Her Majesty and Her said Indians that Reserves shall be assigned them of sufficient area to allow one square mile for each family of five persons, or in that proportion for larger and smaller families, and that said Reserves shall be located as follows, that is to say:

First. — The Reserves of the Blackfeet, Blood and Sarcee Bands of Indians, shall consist of a belt of land on the north side of the Bow and South Saskatchewan Rivers, of an average width of four miles along said rivers, down stream, commencing at a point on the Bow River twenty miles north-westerly of the Blackfoot Crossing thereof, and extending to the Red Deer River at its junction with the South Saskatchewan; also for the term of ten years, and no longer, from the date of the concluding of this Treaty, when it shall cease to be a portion of said Indian Reserves, as fully to all intents and purposes as if it had not at any time been included therein, and without any compensation to individual Indians for improvements, of a similar belt of land on the south side of the Bow and Saskatchewan Rivers of an average width of one mile along said rivers, down stream; commencing at the aforesaid point on the Bow River, and extending to a point one mile west of the coal seam on said river, about five miles below the said Blackfoot Crossing; beginning again one mile east of the said coal seam and extending to the mouth of Maple Creek at its junction with the South Saskatchewan; and beginning again at the junction of the Bow River with the latter river, and extending on both sides of the South Saskatchewan in an average width on each side thereof of one mile, along said river against the steam, to the junction of the Little Bow River with the latter river, reserving to Her Majesty, as may now or hereafter be required by Her for the use of Her Indian and other subjects, from all the Reserves hereinbefore described, the right to navigate the above mentioned rivers, to land and receive fuel cargoes on the shores and banks thereof, to build bridges and establish ferries thereon, to use the fords thereof and all the trails leading thereto, and to open such other roads through the said Reserves as may appear to Her Majesty's Government of Canada, necessary for the ordinary travel of her Indian and other subjects, due compensation being paid to individual Indians for improvements, when the same may be in any manner encroached upon by such roads.

TREATY NO. 7

Secondly — That the Reserve of the Piegan Band of Indians shall be on the Old Man's River, near the foot of the Porcupine Hills, at a place called "Crow's Creek."

And, Thirdly — The Reserve of the Stony Band of Indians shall be in the vicinity of Morleyville.

In view of the satisfaction of Her Majesty with the recent general good conduct of her said Indians, and in extinguishment of all their past claims, she hereby, through her Commissioners, agrees to make them a present payment of twelve dollars each in cash to each man, woman, and child of the families here represented.

Her Majesty also agrees that next year, and annually afterwards forever, she will cause to be paid to the said Indians, in cash, at suitable places and dates, of which the said Indians shall be duly notified, to each Chief, twenty-five dollars, each minor Chief or Councillor (not exceeding fifteen minor Chiefs to the Blackfeet and Blood Indians, and four to the Piegan and Sarcee Bands, and five Councillors to the Stony Indian Bands), fifteen dollars, and to every other Indian of whatever age, five dollars; the same, unless there be some exceptional reason, to be paid to the heads of families for those belonging thereto.

Further, Her Majesty agrees that the sum of two thousand dollars shall hereafter every year be expended in the purchase of ammunition for distribution among the said Indians; Provided that if at any future time ammunition become comparatively unnecessary for said Indians, Her Government, with the consent of said Indians, or any of the Bands thereof, may expend the proportion due to such Band otherwise for their benefit.

Further, Her Majesty agrees that each Head Chief and Minor Chief, and each Chief and Councillor duly recognized as such, shall, once in every three years, during the term of their office, receive a suitable suit of clothing, and each Head Chief and Stony Chief, in recognition of the closing of the Treaty, a suitable medal and flag, and next year, or as soon as convenient, each Head Chief, and Minor Chief, and Stony Chief shall receive a Winchester rifle.

Further, Her Majesty agrees to pay the salary of such teachers to instruct the children of said Indians as to Her Government of Canada may seem advisable, when said Indians are settled on their Reserves and shall desire teachers.

Further, Her Majesty agrees to supply each Head and Minor Chief, and each Stony Chief, for the use of their Bands, ten axes, five handsaws, five augers, one grindstone, and the necessary files and whetstones.

And further, Her Majesty agrees that the said Indians shall be supplied as soon as convenient, after any Band shall make due application therefor, with the following cattle for raising stock, that is to say: for every family of five persons, and under, two cows; for every family of more than five persons, and less than ten persons, three cows; for every family of over ten persons, four cows; and every Head and Minor Chief, and every Stony Chief, for the use of their Bands, one bull; but if any Band desire to cultivate the soil as well as raise stock, each family of such Band shall receive one cow less than the above mentioned number, and in lieu thereof, when settled on their Reserves and prepared to break up the soil, two hoes, one spade, one scythe, and two hay forks, and for every three families, one plough and one harrow, and for each Band, enough potatoes, barley, oats, and wheat (if such seeds be suited for the locality of their Reserves) to plant the land actually broken up. All the aforesaid articles to be given, once for all, for the encouragement of the practice of agriculture among the Indians.

And the undersigned Blackfeet, Blood, Piegan and Sarcee Head Chiefs and Minor Chiefs,

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and Stony Chiefs and Councillors on their own behalf and on behalf of all other Indians inhabiting the Tract within ceded do hereby solemnly promise and engage to strictly observe this Treaty, and also to conduct and behave themselves as good and loyal subjects of Her Majesty the Queen. They promise and engage that they will, in all respects, obey and abide by the Law, that they will maintain peace and good order between each other and between themselves and other tribes of Indians, and between themselves and others of Her Majesty's subjects, whether Indians, Half Breeds or Whites, now inhabiting, or hereafter to inhabit, any part of the said ceded tract; and that they will not molest the person or property of any inhabitant of such ceded tract, or the property of Her Majesty the Queen, or interfere with or trouble any person, passing or travelling through the said tract or any part thereof, and that they will assist the officers of Her Majesty in bringing to justice and punishment any Indian offending against the stipulations of this Treaty, or infringing the laws in force in the country so ceded.

IN WITNESS WHEREOF HER MAJESTY'S said Commissioners, and the said Indian Head and Minor Chiefs, and Stony Chiefs and Councillors, have hereunto subscribed and set their hands, at the "Blackfoot Crossing" of the Bow River, the day and year herein first above written.

Signed by the Chiefs and Councillors within named in presence of the following witnesses, the same having been first explained by James Bird, Interpreter.

TREATY NO. 8

ARTICLES OF A TREATY made and concluded at the several dates mentioned therein, in the year of Our Lord one thousand eight hundred and ninety-nine, between Her most Gracious Majesty the Queen of Great Britain and Ireland, by Her Commissioners the Honourable David Laird, of Winnipeg, Manitoba, Indian Commissioner for the said Province and the Northwest Territories; James Andrew Joseph McKenna, of Ottawa, Ontario, Esquire, and the Honourable James Hamilton Ross, of Regina, in the Northwest Territories, of the one part; and the Cree, Beaver, Chipewyan and other Indians, inhabitants of the territory within the limits hereinafter defined and described, by their Chiefs and Headmen, hereunto subscribed, of the other part: —

WHEREAS, the Indians inhabiting the territory hereinafter defined have, pursuant to notice given by the Honourable Superintendent General of Indian Affairs in the year 1898, been convened to meet a Commission representing Her Majesty's Government of the Dominion of Canada at certain places in the said territory in this present year 1899, to deliberate upon certain matters of interest to Her Most Gracious Majesty, of the one part, and the said Indians of the other.

AND WHEREAS, the said Indians have been notified and informed by Her Majesty's said Commission that it is Her desire to open for settlement, immigration, trade, travel, mining, lumbering, and such other purposes as to Her Majesty may seem meet, a tract of country bounded and described as hereinafter mentioned, and to obtain the consent thereto of Her Indian subjects inhabiting the said tract, and to make a treaty, and arrange with them, so that there may be peace and good will between them and Her Majesty's other subjects, and that Her Indian people may know and be assured of what allowances they are to count upon and receive from Her Majesty's bounty and benevolence.

AND WHEREAS, the Indians of the said tract, duly convened in council at the respective points named hereunder, and being requested by Her Majesty's Commissioners to name certain Chiefs and Headmen who should be authorized on their behalf to conduct such negotiations and sign any treaty to be founded thereon, and to become responsible to Her Majesty for the faithful performance by their respective bands of such obligations as shall be assumed by them, the said Indians have therefore acknowledged for that purpose the several Chiefs and Headmen who have subscribed hereto.

AND WHEREAS, the said Commissioners have proceeded to negotiate a treaty with the Cree, Beaver, Chipewyan and other Indians, inhabiting the district hereinafter defined and described, and the same has been agreed upon and concluded by the respective bands at the dates mentioned hereunder, the said Indians DO HEREBY CEDE, RELEASE, SURRENDER AND YIELD UP to the Government of the Dominion of Canada, for Her Majesty the Queen and Her successors for every, all their rights, titles and privileges whatsoever, to the lands included within the following limits, that is to say: —

Commencing at the source of the main branch of the Red Deer River in Alberta, thence due west to the central range of the Rocky Mountains, thence northwesterly along the said range to the point where it intersects the 60th parallel of north latitude, thence east along said parallel to the point where it intersects Hay River, thence northeasterly down said river to the south shore of Great Slave Lake, thence along the said shore northeasterly (and including such

rights to the islands in said lakes as the Indians mentioned in the treaty may possess), and thence easterly and northeasterly along the south shores of Christie's Bay and McLeod's Bay to old Fort Reliance near the mouth of Lockhart's River, thence southeasterly in a straight line to and including Black Lake, thence southwesterly up the stream from Cree Lake, thence including said Lake southwesterly along the height of land between the Athabasca and Churchill Rivers to where it intersects the northern boundary of Treaty Six, and along the said boundary easterly, northerly and southwesterly, to the place of commencement.

AND ALSO the said Indian rights, titles and privileges whatsoever to all other lands wherever situated in the Northwest Territories, British Columbia, or in any other portion of the Dominion of Canada.

TO HAVE AND TO HOLD the same to Her Majesty the Queen and Her successors for ever.

And Her Majesty the Queen HEREBY AGREES with the said Indians that they shall have right to pursue their usual vocations of hunting, trapping and fishing throughout the tract surrendered as heretofore described, subject to such regulations as may from time to time be made by the Government of the country, acting under the authority of Her Majesty, and saving and excepting such tracts as may be required or taken up from time to time for settlement, mining, lumbering, trading or other purposes.

And Her Majesty the Queen hereby agrees and undertakes to lay aside reserves for such bands as desire reserves, the same not to exceed in all one square mile for each family of five for such number of families as may elect to reside on reserves, or in that proportion for larger or smaller families; and for such families or individual Indians as may prefer to live apart from band reserves, Her Majesty undertakes to provide land in severalty to the extent of 160 acres to each Indian, the land to be conveyed with a proviso as to non-alienation without the consent of the Governor General in Council of Canada, the selection of such reserves, and lands in severalty, to be made in the manner following, namely, the Superintendent General of Indian Affairs shall depute and send a suitable person to determine and set apart such reserves and lands, after consulting with the Indians concerned as to the locality which may be found suitable and open for selection.

Provided, however, that Her Majesty reserves the right to deal with any settlers within the bounds of any lands reserved for any band as She may see fit; and also that the aforesaid reserves of land, or any interest therein, may be sold or otherwise disposed of by Her Majesty's Government for the use and benefit of the said Indians entitled thereto, with their consent first had and obtained.

It is further agreed between Her Majesty and Her said Indian subjects that such portions of the reserves and lands above indicated as may at any time be required for public works, building, railways, or roads of whatsoever nature may be appropriated for that purpose by Her Majesty's Government of the Dominion of Canada, due compensation being made to the Indians for the value of any improvements thereon, and an equivalent in land, money or other consideration for the area of the reserve so appropriated.

And with a view to show the satisfaction of Her Majesty with the behaviour and good conduct of Her Indians, and in extinguishment of all their past claims, She hereby, through Her Commissioners, agrees to make each Chief a present of thirty-two dollars in cash, to each Headman twenty-two dollars, and to every other Indian of whatever age, of the families represented at the time and place of payment, twelve dollars.

Her Majesty also agrees that next year, and annually afterwards for ever, She will cause

to be paid to the said Indians in cash, at suitable places and dates, of which the said Indians shall be duly notified, to each Chief twenty-five dollars, each Headman, not to exceed four to a large Band and two to a small Band, fifteen dollars, and to every other Indian, of whatever age, five dollars, the same, unless there be some exceptional reason, to be paid only to heads of families for those belonging thereto.

FURTHER, Her Majesty agrees that each Chief, after signing the treaty, shall receive a silver medal and a suitable flag, and next year, and every third year thereafter, each Chief and Headman shall receive a suitable suit of clothing.

FURTHER, Her Majesty agrees to pay the salaries of such teachers to instruct the children of said Indians as to Her Majesty's Government of Canada may seem advisable.

FURTHER, Her Majesty agrees to supply each Chief of a Band that selects a reserve, for the use of that Band, ten axes, five hand-saws, five augers, one grindstone, and the necessary files and whetstones.

FURTHER, Her Majesty agrees that each Band that elects to take a reserve and cultivate the soil, shall, as soon as convenient after such reserve is set aside and settled upon, and the Band has signified its choice and its prepared to break up the soil, receive two hoes, one spade, one scythe and two hay forks for every family so settled, and for every three families one plough and one harrow, and to the Chief, for the use of his Band, two horses or a yoke of oxen, and for each Band potatoes, barley, oats and wheat (if such seed be suited to the locality of the reserve), to plant the land actually broken up, and provisions for one month in the spring for several years while planting such seeds; and to every family one cow, and every Chief one bull, and one mowing-machine and one reaper for the use of his Band when it is ready for them; for such families as prefer to raise stock instead of cultivating the soil, every family of five persons, two cows, and every Chief two bulls and two mowing-machines when ready for their use, and a like proportion for smaller or larger families. The aforesaid articles, machines and cattle to be given one for all for the encouragement of agriculture and stock raising; and for such Bands as prefer to continue hunting and fishing, as much ammunition and twine for making nets annually as will amount in value to one dollar per head of the families so engaged in hunting and fishing.

And the undersigned Cree, Beaver, Chipewyan and other Indian Chiefs and Headmen, on their own behalf and on behalf of all the Indians whom they represent, DO HEREBY SOLEMNLY PROMISE and engage to strictly observe this Treaty, and also to conduct and behave themselves as good and loyal subjects of Her Majesty the Queen.

THEY PROMISE AND ENGAGE that they will, in all respects, obey and abide by the law; that they will maintain peace between each other, and between themselves and other tribes of Indians, and between themselves and others of Her Majesty's subjects, whether Indians, half-breeds or whites, this year inhabiting and hereafter to inhabit any part of the said ceded territory; and that they will not molest the person or property of any inhabitant of such ceded tract, or of any other district or country, or interfere with or trouble any person passing or travelling through the said tract or any part thereof, and that they will assist the officers of Her Majesty in bringing to justice and punishment any Indian offending against the stipulations of this Treaty or infringing the law in force in the country so ceded.

IN WITNESS WHEREOF Her Majesty's said Commissioners and the Cree Chief and Headmen of Lesser Slave Lake and the adjacent territory, HAVE HEREUNTO SET THEIR HANDS at Lesser Slave Lake on the twenty-first day of June, in the year herein first above written.

TREATY NO. 8

Signed by the parties hereto, in the presence of the undersigned witnesses, the same having been first explained to the Indians by Albert Tate and Samuel Cunningham, Interpreters.

THE JAMES BAY TREATY — TREATY NO. 9

ARTICLES OF A TREATY made and concluded at the several dates mentioned therein, in the year of Our Lord one thousand and nine hundred and five, between His Most Gracious Majesty the King of Great Britain and Ireland, by His Commissioners, Duncan Campbell Scott, of Ottawa, Ontario, Esquire, and Samuel Stewart, of Ottawa, Ontario, Esquire; and Daniel George MacMartin, of Perth, Ontario, Esquire, representing the province of Ontario, of the one part; and the Ojibeway, Cree and other Indians, inhabitants of the territory within the limits hereinafter defined and described, by their chiefs, and headmen hereunto subscribed, of the other part: —

Whereas, the Indians inhabiting the territory hereinafter defined have been convened to meet a commission representing His Majesty's government of the Dominion of Canada at certain places in the said territory in this present year of 1905, to deliberate upon certain matters of interest to His Most Gracious Majesty, of the one part, and the said Indians of the other.

And, whereas, the said Indians have been notified and informed by His Majesty's said commission that it is His desire to open for settlement, immigration, trade, travel, mining, lumbering, and such other purposes as to His Majesty may seem meet, a tract of country, bounded and described as hereinafter mentioned, and to obtain the consent thereto of His Indian subjects inhabiting the said tract, and to make a treaty and arrange with them, so that there may be peace and good-will between them and His Majesty's other subjects, and that His Indian people may know and be assured of what allowances they are to count upon and receive from His Majesty's bounty and benevolence.

And whereas, the Indians of the said tract, duly convened in council at the respective points named hereunder, and being requested by His Majesty's commissioners to name certain chiefs and headmen who should be authorized on their behalf to conduct such negotiations and sign any treaty to be found thereon, and to become responsible to His Majesty for the faithful performance by their respective bands of such obligations as shall be assumed by them, the said Indians have therefore acknowledged for that purpose the several chiefs and headmen who have subscribed hereto.

And whereas, the said commissioners have proceeded to negotiate a treaty with the Ojibeway, Cree and other Indians, inhabiting the district hereinafter defined and described, and the same has been agreed upon, and concluded by the respective bands at the dates mentioned hereunder, the said Indians do hereby cede, release, surrender and yield up to the government of the Dominion of Canada, for His Majesty the King and His successors for ever, all their rights titles and privileges whatsoever, to the lands included within the following limits, that is to say: That portion or tract of land lying and being in the province of Ontario, bounded on the south by the height of land and the northern boundaries of the territory ceded by the Robinson-Superior Treaty of 1850, and the Robinson-Huron Treaty of 1850, and bounded on the east and north by the boundaries of the said province of Ontario as defined by law, and on the west by a part of the eastern boundary of the territory ceded by the North-west Angle Treaty No. 3; the said land containing an area of ninety thousand square miles, more or less.

And also, the said Indian rights, titles and privileges whatsoever to all other lands wherever situated in Ontario, Quebec, Manitoba, the District of Keewatin, or in any other portion of the Dominion of Canada.

To have and to hold the same to His Majesty the King and His successors for ever.

And His Majesty the King hereby agrees with the said Indians that they shall have the right to pursue their usual vocations of hunting, trapping and fishing throughout the tract surrendered as heretofore described, subject to such regulations as may from time to time be made by the government of the country, acting under the authority of His Majesty, and saving and excepting such tracts as may be required or taken up from time to time for settlement, mining, lumbering, trading or other purposes.

And His Majesty the King hereby agrees and undertakes to lay aside reserves for each band, the same not to exceed in all one square mile for each family of five, or in that proportion for larger and smaller families; and the location of the said reserves having been arranged between His Majesty's commissioners and the chiefs and headmen, as described in the schedule of reserves hereto attached, the boundaries thereof to be hereafter surveyed and defined, the said reserves when confirmed shall be held and administered by His Majesty for the benefit of the Indians free of all claims, liens, or trusts by Ontario.

Provided, however, that His Majesty reserves the right to deal with any settlers within the bounds of any lands reserved for any band as He may see fit; and also that the aforesaid reserves of land, or any interest therein, may be sold or otherwise disposed of by His Majesty's government for the use and benefit of the said Indians entitled thereto, with their consent first had and obtained; but in no wise shall the said Indians, or any of them, be entitled to sell or otherwise alienate any of the lands allotted to them as reserves.

It is further agreed between His said Majesty and His Indian subjects that such portions of the reserves and lands above indicated as may at any time be required for public works, buildings, railways, or roads of whatsoever nature may be appropriated for that purpose by His Majesty's government of the Dominion of Canada, due compensation being made to the Indians for the value of any improvements thereon, and an equivalent in land, money or other consideration for the area of the reserve so appropriated.

And with a view to show the satisfaction of His Majesty with the behaviour and good conduct of His Indians, and in extinguishment of all their past claims, He hereby, through His commissioners, agrees to make each Indian a present of eight dollars in cash.

His Majesty also agrees that next year, and annually afterwards for ever, He will cause to be paid to the said Indians in cash, at suitable places and dates, of which the said Indians shall be duly notified, four dollars, the same, unless there be some exceptional reason, to be paid only to the heads of families for those belonging thereto.

Further, His Majesty agrees that each chief, after signing the treaty, shall receive a suitable flag and a copy of this treaty to be for the use of his band.

Further, His Majesty agrees to pay such salaries of teachers to instruct the children of said Indians, and also to provide such school buildings and educational equipment as may seem advisable to His Majesty's government of Canada.

And the undersigned Ojibeway, Cree and other chiefs and headmen, on their own behalf and on behalf of all the Indians whom they represent, do hereby solemnly promise and engage to strictly observe this treaty, and also to conduct and behave themselves as good and loyal subjects of His Majesty the King.

They promise and engage that they will, in all respects, obey and abide by the law; that

TREATY NO. 9

they will maintain peace between each other and between themselves and other tribes of Indians, and between themselves and others of His Majesty's subjects, whether Indians, half-breeds or whites, this year inhabiting and hereafter to inhabit any part of the said ceded territory; and that they will not molest the person or property of any inhabitant of such ceded tract, or of any other district or country, or interfere with or trouble any person passing or travelling through the said tract, or any part thereof, and that they will assist the officers of His Majesty in bringing to justice and punishment any Indian offending against the stipulations of this treaty, or infringing the law in force in the country so ceded.

And it is further understood that this treaty is made and entered into subject to an agreement dated the third day of July, nineteen hundred and five, between the Dominion of Canada and Province of Ontario, which is hereto attached.

In witness whereof, His Majesty's said commissioners and the said chiefs and headmen have hereunto set their hands at the places and times set forth in the year herein first above written.

Signed at Osnaburg on the twelfth day of July, 1905, by His Majesty's commissioners and the chiefs and headmen in the presence of the undersigned witnesses, after having been first interpreted and explained.

TREATY NO. 10

Articles of a treaty made and concluded at the several dates mentioned therein, in the year of our Lord one thousand nine hundred and six between His Most Gracious Majesty the King of Great Britain and Ireland by His commissioner, James Andrew Joseph McKenna, of the city of Winnipeg, in the province of Manitoba, Esquire, of the one part, and the Chipewyan, Cree and other Indian inhabitants of the territory within the limits hereinafter defined and described by their chiefs and headmen hereunto subscribed of the other part.

Whereas the Indians inhabiting the territory hereinafter defined have, pursuant to notice given by His Majesty's said commissioner in the year 1906, been convened to meet His Majesty's said commissioner representing His Majesty's government of the Dominion of Canada at certain places in the said territory in this present year 1906 to deliberate upon certain matters of interest to His Most Gracious Majesty on the one part and the said Indians of the other.

And whereas the said Indians have been notified and informed by His Majesty's said commissioner that it is His Majesty's desire to open for settlement, immigration, trade, travel, mining, lumbering and such other purposes as to His Majesty may seem meet, a tract of country bounded and described as hereinafter mentioned and to obtain the consent thereto of his Indian subjects inhabiting the said tract and to make a treaty and arrange with them so that there may be peace and good will between them and His Majesty's other subjects, and that His Indian people may know and be assured of what allowances they are to count upon and receive from His Majesty's bounty and benevolence.

And whereas the Indians of the said tract, duly convened in council at the respective points named hereunder and being requested by His Majesty's said commissioner to name certain chiefs and headmen who should be authorized on their behalf to conduct such negotiations and sign any treaty to be founded thereon and to become responsible to His Majesty for the faithful performance by their respective bands of such obligations as shall be assumed by them, the said Indians have therefore acknowledged for that purpose the several chiefs and headmen who have subscribed hereto.

And whereas the said commissioner has proceeded to negotiate a treaty with the Chipewyan, Cree and other Indians inhabiting the said territory hereinafter defined and described and the same has been agreed upon and concluded by the respective bands at the dates mentioned hereunder;

Now therefore the said Indians do hereby cede, release, surrender and yield up to the government of the Dominion of Canada for His Majesty the King and His successors for every all their rights, titles and privileges whatsoever to the lands included within the following limits, that is to say: —

All that territory situated partly in the province of Saskatchewan and partly in the province of Alberta, and lying to the east of Treaty Eight and to the north of Treaties Five, Six and the addition to Treaty Six, containing approximately an area of eighty-five thousand eight hundred (85,800) square miles and which may be described as follows: —

Commencing at the point where the northern boundary of Treaty Five intersects the eastern boundary of the province of Saskatchewan; thence northerly along the said eastern boundary

four hundred and ten miles, more or less, to the sixtieth parallel of latitude and northern boundary of the said province of Saskatchewan; thence west along the said parallel one hundred and thirty miles, more or less, to the eastern boundary of Treaty Eight; thence southerly and westerly following the said eastern boundary of Treaty Eight to its intersection with the northern boundary of Treaty Six; thence easterly along the said northern boundary of Treaty Six to its intersection with the western boundary to the northern boundary of the said addition; thence easterly along the said northern boundary to the eastern boundary of the said addition; thence southerly along the said eastern boundary to its intersection with the northern boundary of Treaty Six; thence easterly along the said northern boundary and the northern boundary of Treaty Five to the point of commencement.

And also all their rights, titles and privileges whatsoever as Indians to all and any other lands wherever situated in the provinces of Saskatchewan and Alberta and the Northwest Territories or any other portion of the Dominion of Canada.

To have and to hold the same to His Majesty the King and His successors for ever.

And His Majesty the King hereby agrees with the said Indians that they shall have the right to pursue their usual vocations of hunting, trapping and fishing throughout the territory surrendered as heretofore described, subject to such regulations as may from time to time be made by the government of the country acting under the authority of His Majesty and saving and excepting such tracts as may be required or as may be taken up from time to time for settlement, mining, lumbering, trading or other purposes.

And His Majesty the King hereby agrees and undertakes to set aside reserves of land for such bands as desire the same, such reserves not to exceed in all one square mile for each family of five for such number of families as may elect to reside upon reserves or in that proportion for larger or smaller families; and for such Indian families or individual Indians as prefer to live apart from band reserves His Majesty undertakes to provide land in severalty to the extent of one hundred and sixty (160) acres for each Indian, the land not to be alienable by the Indian for whom it is set aside in severalty without the consent of the Governor General in Council of Canada, the selection of such reserves and land in severalty to be made in the manner following, namely, the Superintendent General of Indian Affairs shall depute and send a suitable person to determine and set apart such reserves and lands, after consulting with the Indians concerned as to the locality which may be found suitable and open for selection.

Provided, however, that His Majesty reserves the right to deal with any settlers within the bounds of any lands reserved for any band or bands as He may see fit; and also that the aforesaid reserves of land, or any interest therein, may be sold or otherwise disposed of by His Majesty's government of Canada for the use and benefit of the Indians entitled there to, with their consent first had and obtained.

It is further agreed between His Majesty and His said Indian subjects that such portions of the reserves and lands above mentioned as may at any time be required for public works, buildings, railways or roads of whatsoever nature may be appropriated for such purposes by His Majesty's government of Canada due compensation being made to the Indians for the value of any improvements thereon, and an equivalent in land, money or other consideration for the area so appropriated.

And with a view to showing the satisfaction of His Majesty with the behaviour and good conduct of His Indians and in extinguishment of all their past claims, He hereby through His commissioner agrees to make each chief a present of thirty-two (32) dollars in cash, to each

headman twenty-two (22) dollars and to every other Indian of whatever age of the families represented at the time and place of payment twelve (12) dollars.

His Majesty also agrees that next year and annually thereafter for every He will cause to be paid to the Indians in cash, at suitable places and dates of which the said Indians shall be duly notified, to each chief twenty-five (25) dollars, each headman fifteen (15) dollars and to every other Indian of whatever age five (5) dollars.

Further His Majesty agrees that each chief, after signing the treaty, shall receive a silver medal and a suitable flag, and next year and every third year thereafter each chief shall receive a suitable suit of clothing, and that after signing the treaty each headman shall receive a bronze medal and next year and every third year thereafter a suitable suit of clothing.

Further His Majesty agrees to make such provision as may from time to time be deemed advisable for the education of the Indian children.

Further His Majesty agrees to furnish such assistance as may be found necessary or advisable to aid and assist the Indians in agriculture or stock-raising or other work and to make such a distribution of twine and ammunition to them annually as is usually made to Indians similarly situated.

And the undersigned Chipewyan, Cree and other Indian chiefs and headmen on their own behalf and on behalf of all the Indians whom they represent do hereby solemnly promise and engage to strictly observe this treaty in all and every respect and to behave and conduct themselves as good and loyal subjects of His Majesty the King.

They promise and engage that they will in all respects obey and abide by the law; that they will maintain peace between each other and between their tribes and other tribes of Indians and between themselves and other of His Majesty's subjects whether whites, Indians, half-breeds or others now inhabiting or who may hereafter inhabit any part of the territory hereby ceded and herein described, and that they will not molest the person or trespass upon the property or interfere with the rights of any inhabitant of such ceded tract or of any other district or country or interfere with or trouble any person passing or travelling through the said tract or any part thereof and that they will assist the officers of His Majesty in bringing to justice and punishment any Indian offending against the stipulations of this treaty or infringing the law in force in the country so ceded.

In witness whereof His Majesty's said commissioner and the chiefs and headmen have hereunto set their hands at Isle à la Crosse this twenty-eighth day of August in the year herein first above written.

Signed by the parties hereto in the presence of the undersigned witnesses the same having first been explained to the Indians by Magloire Maurice, interpreter.

TREATY NO. 11

ARTICLES OF A TREATY made and concluded on the several dates mentioned therein in the year of Our Lord One thousand Nine hundred and Twenty-One, between His Most Gracious Majesty George V, King of Great Britain and Ireland and of the British Dominions beyond the Seas, by His Commissioner, Henry Anthony Conroy, Esquire, of the City of Ottawa, of the One Part, and the Slave, Dogrib, Loucheux, Hare and other Indians, inhabitants of the territory within the limits hereinafter defined and described, by their Chiefs and Headmen, hereunto subscribed, of the other part: —

WHEREAS, the Indians inhabiting the territory hereinafter defined have been convened to meet a commissioner representing His Majesty's Government of the Dominion of Canada at certain places in the said territory in this present year of 1921, to deliberate upon certain matters of interest to His Most Gracious Majesty, of the one part, and the said Indians of the other.

AND WHEREAS, the said Indians have been notified and informed by His Majesty's said commissioner that it is His desire to open for settlement, immigration, trade, travel, mining, lumbering and such other purposes as to His Majesty may seem meet, a tract of country bounded and described as hereinafter set forth, and to obtain the consent thereto of His Indian subjects inhabiting the said tract, and to make a treaty, so that there may be peace and goodwill between them and His Majesty's other subjects, and that His Indian people may know and be assured of what allowances they are to expect and receive from His Majesty's bounty and benevolence.

AND WHEREAS, the Indians of the said tract, duly convened in council at the respective points named hereunder, and being requested by His Majesty's Commissioner, to name certain Chiefs and Headmen, who should be authorized on their behalf to conduct such negotiations and sign any treaty to be founded thereon, and to become responsible to His Majesty for the faithful performance by their respective bands of such obligations as shall be assumed by them, the said Indians have therefore acknowledged for that purpose the several chiefs and Headmen who have subscribed thereto.

AND WHEREAS the said Commissioner has proceeded to negotiate a treaty with the Slave, Dogrib, Loucheux, Hare and other Indians inhabiting the district hereinafter defined and described, which has been agreed upon and concluded by the respective bands at the dates mentioned hereunder, the said Indians do hereby cede, release, surrender and yield up to the Government of the Dominion of Canada, for His Majesty the King and His Successors forever, all their rights, titles, and privileges whatsoever to the lands included within the following limits, that is to say:

Commencing at the northwesterly corner of the territory ceded under the provisions of Treaty Number Eight; thence northeasterly along the height-of-land to the point where it intersects the boundary between the Yukon Territory and the Northwest Territories; thence northwesterly along the said boundary to the shore of the Arctic ocean; thence easterly along the said shore to the mouth of the Coppermine river; thence southerly and southeasterly along the left bank of the said river to Lake Gras by way of Point lake; thence along the southern shore of Lake Gras to a point situated northwest of the most western extremity of Aylmer lake; thence along the southern shore of Aylmer lake and following the right bank of the Lockhart river to Artillery lake; thence along the western shore of Artillery Lake and following the right bank of the Lockhart river to the site of Old Fort Reliance where the said river enters Great

Slave lake, this being the northeastern corner of the territory ceded under the provisions of Treaty Number Eight; thence westerly along the northern boundary of the said territory so ceded to the point of commencement; comprising an area of approximately three hundred and seventy-two thousand square miles.

AND ALSO, the said Indian rights, titles and privileges whatsoever to all other lands wherever situated in the Yukon Territory, the Northwest Territories or in any other portion of the Dominion of Canada.

To have and to hold the same to His Majesty the King and His Successors forever.

AND His Majesty the King hereby agrees with the said Indians that they shall have the right to pursue their usual vocations of hunting, trapping and fishing throughout the tract surrendered as heretofore described, subject to such regulations as may from time to time be made by the Government of the Country acting under the authority of His Majesty, and saving and excepting such tracts as may be required or taken up from time to time for settlement, mining, lumbering, trading or other purposes.

AND His Majesty the King hereby agrees and undertakes to lay aside reserves for each band, the same not to exceed in all one square mile for each family of five, or in that proportion for larger or smaller families;

PROVIDED, however, that His Majesty reserves the right to deal with any settlers within the boundaries of any lands reserved for any band as He may see fit; and also that the aforesaid reserves of land, or any interest therein, may be sold or otherwise disposed of by His Majesty's Government for the use and benefit of the said Indians entitled thereto, with their consent first had and obtained; but in no wise shall the said Indians, or any of them, be entitled to sell or otherwise alienate any of the lands allotted to them as reserves.

It is further agreed between His Majesty and His Indian subjects that such portions of the reserves and lands above indicated as may at any time be required for public works, buildings, railways, or roads of whatsoever nature may be appropriated for that purpose by His Majesty's Government of the Dominion of Canada, due compensation being made to the Indians for the value of any improvements thereon, and an equivalent in land, money or other consideration for the area of the reserve so appropriated.

And in order to show the satisfaction of His Majesty with the behaviour and good conduct of His Indian subjects, and in extinguishment of all their past claims hereinabove mentioned, He hereby, through his Commissioner, agrees to give to each Chief a present of thirty-two dollars in cash, to each Headman, twenty-two dollars, and to every other Indian of whatever age of the families represented, at the time and place of payment, twelve dollars.

HIS MAJESTY, also agrees that during the coming year, and annually thereafter, He will cause to be paid to the said Indians in cash, at suitable places and dates, of which the said Indians shall be duly notified, to each Chief twenty-five dollars, to each Headman fifteen dollars, and to every other Indian of whatever age five dollars, to be paid only to heads of families for the members thereof, it being provided for the purposes of this Treaty that each band having at least thirty members may have a Chief, and that in addition to a Chief, each band may have Councillors or Headmen in the proportion of two to each two hundred members of the band.

FURTHER, His Majesty agrees that each Chief shall receive once and for all a silver medal,

a suitable flag and a copy of this Treaty for the use of his band; and during the coming year, and every third year thereafter, each Chief and Headman shall receive a suitable suit of clothing.

FURTHER, His Majesty agrees to pay the salaries of teachers to instruct the children of said Indians in such manner as His Majesty's Government may deem advisable.

FURTHER, His Majesty agrees to supply once and for all to each Chief of a band that selects a reserve, ten axes, five hand-saws, five augers, one grindstone, and the necessary files and whetstones for the use of the band.

FURTHER, His Majesty agrees that, each band shall receive once and for all equipment for hunting, fishing and trapping to the value of fifty dollars for each family of such band, and that there shall be distributed annually among the Indians equipment, such as twine for nets, ammunition and trapping to the value of three dollars per head for each Indian who continues to follow the vocation of hunting, fishing and trapping.

FURTHER, His Majesty agrees that, in the event of any of the Indians aforesaid being desirous of following agricultural pursuits, such Indians shall receive such assistance as is deemed necessary for that purpose.

AND the undersigned Slave, Dogrib, Loucheux, Hare and other Chiefs and Headmen, on their own behalf and on behalf of all the Indians whom they represent, do hereby solemnly promise and engage to strictly observe this Treaty, and also to conduct and behave themselves as good loyal subjects of His Majesty the King.

THEY promise and engage that they will, in all respects, obey and abide by the law; that they will maintain peace between themselves and others of His Majesty's subjects, whether Indians, half-breeds or whites, now inhabiting and hereafter to inhabit any part of the said ceded territory; that they will not molest the person or property of any inhabitant of such ceded tract, or of any other district or country, or interfere with, or trouble any person passing or travelling through the said tract or any part thereof, and that they will assist the officers of His Majesty in bringing to justice and punishment any Indian offending against the stipulations of this Treaty, or infringing the law in force in the country so ceded.

IN WITNESS WHEREOF, His Majesty's said Commissioner and the said Chiefs and Headmen have hereunto set their hands at the places and times set forth in the year herein first above written.

SIGNED AT PROVIDENCE on the twenty-seventh day of June, 1921, by His Majesty's Commissioner and the Chiefs and Headmen in the presence of the undersigned witnesses, after having been first interpreted and explained.

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Page references can be ascertained in one of the following ways:

- 1) *In certain cases, the page reference is listed beside the entry. For example (p. 142).*
- 2) *If the entry in question is a sub-entry, look at the main entry to find the starting page number for the Act, regulation, proclamation or treaty in question.*
- 3) *In other cases*
 - *note the abbreviation of the Act, regulation, proclamation or treaty in question*
 - *look at the list of abbreviations below to find the abbreviation in question*
 - *note the starting page number of the Act, regulation, proclamation or treaty to the right of the abbreviation*

The following abbreviations are used in this index:

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|---|--|
| AA. Alberta Act (p. 363) | NHA. National Housing Act (p. 330) |
| B-039. Technical Information Bulletin B-039 (p. 334) | NTA. Northwest Territories Act (p. 313) |
| BCILSA. British Columbia Indian Lands Settlement Act (p. 162) | ONTILSA. Act for settlement between Governments of Canada and Ontario (p. 165) |
| CA. Constitution Act, 1867 (p. 354) | PSA. Police Services Act (p. 348) |
| CA82. Constitution Act, 1982 (p. 369) | RHT. Robinson Treaty (p. 380) |
| CIT. Indian Treaty (p. 382) | RP. The Royal Proclamation (p. 350) |
| CFSA. Ontario Child and Family Services Act (p. 344) | RST. Robinson Treaty (p. 378) |
| CNQA. Cree-Naskapi (of Quebec) Act (p. 200) | SIBSA. Sechelt Indian Band Self-Government Act (p. 293) |
| DIANDA. Department of Indian Affairs and Northern Development Act (p. 148) | SIGDEA. Sechelt Indian Government District Enabling Act (p. 309) |
| FA. Fisheries Act (p. 319) | T1. Treaty No. 1 (p. 391) |
| GLCSA. Gwich'in Land Claim Settlement Act (p. 274) | T2. Treaty No. 2 (p. 394) |
| IA. Indian Act (p. 1) | T3. Treaty No. 3 (p. 397) |
| ILAA. Indian Lands Agreement (1986) Act (p. 151) | T4. Treaty No. 4 (p. 401) |
| IOGA. Indian Oil and Gas Act (p. 169) | T5. Treaty No. 5 (p. 405) |
| JBNQNCSA. James Bay and Northern Quebec Native Claims Settlement Act (p. 278) | T6. Treaty No. 6 (p. 410) |
| JT. The Jay Treaty, 1794 (p. 388) | T7. Treaty No. 7 (p. 414) |
| MA. Manitoba Act, 1870 (p. 356) | T8. Treaty No. 8 (p. 418) |
| MBCA. Migratory Birds Convention Act (p. 321) | T9. The James Bay Treaty — Treaty No. 9 (p. 422) |
| MIT. Indian Treaty (p. 385) | T10. Treaty No. 10 (p. 425) |
| NCAA. Nunavut Land Claims Agreement Act (p. 284) | T11. Treaty No. 11 (p. 428) |
| | WACSA. Western Arctic (Inuvialuit) Claims Settlement Act (p. 288) |
| | YA. Yukon Act (p. 316) |

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ISBN 0-459-55796-3



9 780459 557966